

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

REVISIONS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Aaron Osmond

House Sponsor: _____

LONG TITLE

Committee Note:

The Economic Development and Workforce Services Interim Committee recommended this bill.

General Description:

This bill modifies statutory provisions related to the Governor's Office of Economic Development (GOED).

Highlighted Provisions:

This bill:

- ▶ creates Title 63N, Governor's Office of Economic Development;
- ▶ recodifies statutory provisions related to GOED;
- ▶ modifies the organization of GOED, the Board of Business and Economic

Development, and the Governor's Economic Development Coordinating Council;

and

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 AMENDS:

- 29 **17-31-9**, as enacted by Laws of Utah 2014, Chapter 429
- 30 **26-18-14**, as enacted by Laws of Utah 2008, Chapter 383
- 31 **26-18-18**, as enacted by Laws of Utah 2013, Chapter 477
- 32 **31A-2-201.2**, as last amended by Laws of Utah 2013, Chapter 319
- 33 **31A-2-212**, as last amended by Laws of Utah 2013, Chapter 341
- 34 **31A-2-218**, as enacted by Laws of Utah 2008, Chapter 383
- 35 **31A-22-613.5**, as last amended by Laws of Utah 2012, Chapter 279
- 36 **31A-22-635**, as last amended by Laws of Utah 2014, Chapters 290 and 300
- 37 **31A-22-726**, as enacted by Laws of Utah 2011, Chapter 278
- 38 **31A-23a-402**, as last amended by Laws of Utah 2013, Chapter 319
- 39 **31A-30-102**, as last amended by Laws of Utah 2014, Chapters 290 and 300
- 40 **31A-30-116**, as enacted by Laws of Utah 2012, Chapter 279
- 41 **31A-30-117**, as last amended by Laws of Utah 2014, Chapter 425
- 42 **31A-30-202**, as last amended by Laws of Utah 2010, Chapter 68
- 43 **31A-30-204**, as last amended by Laws of Utah 2010, Chapter 68
- 44 **31A-30-208**, as last amended by Laws of Utah 2013, Chapters 319 and 341
- 45 **31A-30-302**, as enacted by Laws of Utah 2014, Chapter 425
- 46 **35A-1-104.5**, as last amended by Laws of Utah 2012, Chapter 119
- 47 **53A-1-410**, as last amended by Laws of Utah 2014, Chapter 372
- 48 **59-7-610**, as last amended by Laws of Utah 2008, Chapter 382
- 49 **59-7-614.2**, as last amended by Laws of Utah 2012, Chapters 246 and 410
- 50 **59-7-614.5**, as last amended by Laws of Utah 2012, Chapter 246
- 51 **59-7-614.6**, as last amended by Laws of Utah 2012, Chapter 423
- 52 **59-7-614.8**, as enacted by Laws of Utah 2012, Chapter 410
- 53 **59-7-616**, as enacted by Laws of Utah 2014, Chapter 429
- 54 **59-10-210**, as last amended by Laws of Utah 2008, Chapters 382 and 389
- 55 **59-10-1007**, as last amended by Laws of Utah 2008, Chapter 382
- 56 **59-10-1025**, as last amended by Laws of Utah 2012, Chapter 423
- 57 **59-10-1030**, as enacted by Laws of Utah 2012, Chapter 410
- 58 **59-10-1107**, as last amended by Laws of Utah 2012, Chapters 246 and 410

59 **59-10-1108**, as last amended by Laws of Utah 2012, Chapter 246
60 **59-10-1109**, as last amended by Laws of Utah 2012, Chapter 423
61 **59-10-1110**, as enacted by Laws of Utah 2014, Chapter 429
62 **59-12-103**, as last amended by Laws of Utah 2014, Chapters 380 and 429
63 **59-12-301**, as last amended by Laws of Utah 2012, Chapter 369
64 **63A-3-402**, as last amended by Laws of Utah 2014, Chapters 64 and 185
65 **63E-1-102**, as last amended by Laws of Utah 2014, Chapters 320, 426, and 426
66 **63F-1-205**, as last amended by Laws of Utah 2014, Chapter 196
67 **63G-2-305**, as last amended by Laws of Utah 2014, Chapters 90 and 320
68 **63G-6a-303**, as last amended by Laws of Utah 2014, Chapter 196
69 **63G-6a-304**, as renumbered and amended by Laws of Utah 2012, Chapter 347
70 **63G-6a-305**, as last amended by Laws of Utah 2013, Chapter 445
71 **63G-6a-711**, as last amended by Laws of Utah 2013, Chapter 445
72 **63I-1-263**, as last amended by Laws of Utah 2014, Chapters 113, 189, 195, 211, 419,
73 429, and 435
74 **63I-2-263**, as last amended by Laws of Utah 2014, Chapters 172, 423, and 427
75 **63I-4a-102**, as last amended by Laws of Utah 2014, Chapter 320
76 **63J-1-315**, as enacted by Laws of Utah 2011, Chapter 211
77 **63J-1-602.4**, as last amended by Laws of Utah 2014, Chapters 37, 186, and 189
78 **63J-4-603**, as last amended by Laws of Utah 2013, Chapters 101 and 337
79 **63J-7-102**, as last amended by Laws of Utah 2014, Chapter 320
80 **63M-2-101**, as renumbered and amended by Laws of Utah 2008, Chapter 382
81 **79-4-1103**, as enacted by Laws of Utah 2014, Chapter 313

82 ENACTS:

83 **63N-2-301**, Utah Code Annotated 1953
84 **63N-5-110**, Utah Code Annotated 1953
85 **63N-12-201**, Utah Code Annotated 1953

86 RENUMBERS AND AMENDS:

87 **63G-19-101**, (Renumbered from 63M-1-1001, as renumbered and amended by Laws of
88 Utah 2008, Chapter 382)
89 **63G-19-102**, (Renumbered from 63M-1-1002, as renumbered and amended by Laws of

90 Utah 2008, Chapter 382)
91 **63G-19-103**, (Renumbered from 63M-1-1003, as renumbered and amended by Laws of
92 Utah 2008, Chapter 382)
93 **63N-1-101**, (Renumbered from 63M-1-101, as renumbered and amended by Laws of
94 Utah 2008, Chapter 382)
95 **63N-1-102**, (Renumbered from 63M-1-102, as renumbered and amended by Laws of
96 Utah 2008, Chapter 382)
97 **63N-1-201**, (Renumbered from 63M-1-201, as last amended by Laws of Utah 2014,
98 Chapter 371)
99 **63N-1-202**, (Renumbered from 63M-1-202, as renumbered and amended by Laws of
100 Utah 2008, Chapter 382)
101 **63N-1-203**, (Renumbered from 63M-1-203, as last amended by Laws of Utah 2008,
102 Chapter 352 and renumbered and amended by Laws of Utah 2008, Chapter 382)
103 **63N-1-204**, (Renumbered from 63M-1-205, as renumbered and amended by Laws of
104 Utah 2008, Chapter 382)
105 **63N-1-301**, (Renumbered from 63M-1-206, as enacted by Laws of Utah 2014, Chapter
106 371)
107 **63N-1-401**, (Renumbered from 63M-1-302, as last amended by Laws of Utah 2010,
108 Chapter 286)
109 **63N-1-402**, (Renumbered from 63M-1-303, as last amended by Laws of Utah 2014,
110 Chapter 173)
111 **63N-1-501**, (Renumbered from 63M-1-1303, as enacted by Laws of Utah 2011, Chapter
112 236)
113 **63N-1-502**, (Renumbered from 63M-1-1304, as last amended by Laws of Utah 2014,
114 Chapter 371)
115 **63N-2-101**, (Renumbered from 63M-1-2401, as enacted by Laws of Utah 2008, Chapter
116 372)
117 **63N-2-102**, (Renumbered from 63M-1-2402, as enacted by Laws of Utah 2008, Chapter
118 372)
119 **63N-2-103**, (Renumbered from 63M-1-2403, as last amended by Laws of Utah 2010,
120 Chapters 104 and 164)

121 **63N-2-104**, (Renumbered from 63M-1-2404, as last amended by Laws of Utah 2013,
122 Chapter 392)

123 **63N-2-105**, (Renumbered from 63M-1-2405, as last amended by Laws of Utah 2013,
124 Chapter 392)

125 **63N-2-106**, (Renumbered from 63M-1-2406, as last amended by Laws of Utah 2014,
126 Chapter 371)

127 **63N-2-107**, (Renumbered from 63M-1-2407, as last amended by Laws of Utah 2013,
128 Chapter 310)

129 **63N-2-108**, (Renumbered from 63M-1-2409, as enacted by Laws of Utah 2010, Chapter
130 164)

131 **63N-2-201**, (Renumbered from 63M-1-401, as renumbered and amended by Laws of
132 Utah 2008, Chapter 382)

133 **63N-2-202**, (Renumbered from 63M-1-402, as last amended by Laws of Utah 2011,
134 Chapter 84)

135 **63N-2-203**, (Renumbered from 63M-1-403, as last amended by Laws of Utah 2014,
136 Chapter 371)

137 **63N-2-204**, (Renumbered from 63M-1-404, as last amended by Laws of Utah 2013,
138 Chapter 358)

139 **63N-2-205**, (Renumbered from 63M-1-405, as renumbered and amended by Laws of
140 Utah 2008, Chapter 382)

141 **63N-2-206**, (Renumbered from 63M-1-406, as last amended by Laws of Utah 2011,
142 Chapter 84)

143 **63N-2-207**, (Renumbered from 63M-1-407, as renumbered and amended by Laws of
144 Utah 2008, Chapter 382)

145 **63N-2-208**, (Renumbered from 63M-1-408, as renumbered and amended by Laws of
146 Utah 2008, Chapter 382)

147 **63N-2-209**, (Renumbered from 63M-1-409, as renumbered and amended by Laws of
148 Utah 2008, Chapter 382)

149 **63N-2-210**, (Renumbered from 63M-1-410, as renumbered and amended by Laws of
150 Utah 2008, Chapter 382)

151 **63N-2-211**, (Renumbered from 63M-1-411, as renumbered and amended by Laws of

152 Utah 2008, Chapter 382)
153 **63N-2-212**, (Renumbered from 63M-1-412, as last amended by Laws of Utah 2011,
154 Chapter 84)
155 **63N-2-213**, (Renumbered from 63M-1-413, as last amended by Laws of Utah 2014,
156 Chapter 259)
157 **63N-2-214**, (Renumbered from 63M-1-414, as last amended by Laws of Utah 2011,
158 Chapter 84)
159 **63N-2-215**, (Renumbered from 63M-1-415, as last amended by Laws of Utah 2008,
160 Chapter 114 and renumbered and amended by Laws of Utah 2008, Chapter 382)
161 **63N-2-302**, (Renumbered from 63M-1-501, as renumbered and amended by Laws of
162 Utah 2008, Chapter 382)
163 **63N-2-303**, (Renumbered from 63M-1-502, as renumbered and amended by Laws of
164 Utah 2008, Chapter 382)
165 **63N-2-304**, (Renumbered from 63M-1-503, as renumbered and amended by Laws of
166 Utah 2008, Chapter 382)
167 **63N-2-305**, (Renumbered from 63M-1-504, as renumbered and amended by Laws of
168 Utah 2008, Chapter 382)
169 **63N-2-401**, (Renumbered from 63M-1-1101, as renumbered and amended by Laws of
170 Utah 2008, Chapter 382)
171 **63N-2-402**, (Renumbered from 63M-1-1102, as renumbered and amended by Laws of
172 Utah 2008, Chapter 382)
173 **63N-2-403**, (Renumbered from 63M-1-1103, as last amended by Laws of Utah 2014,
174 Chapter 371)
175 **63N-2-404**, (Renumbered from 63M-1-1104, as last amended by Laws of Utah 2009,
176 Chapter 183)
177 **63N-2-405**, (Renumbered from 63M-1-1105, as renumbered and amended by Laws of
178 Utah 2008, Chapter 382)
179 **63N-2-406**, (Renumbered from 63M-1-1106, as renumbered and amended by Laws of
180 Utah 2008, Chapter 382)
181 **63N-2-407**, (Renumbered from 63M-1-1107, as renumbered and amended by Laws of
182 Utah 2008, Chapter 382)

- 183 **63N-2-408**, (Renumbered from 63M-1-1108, as renumbered and amended by Laws of
184 Utah 2008, Chapter 382)
- 185 **63N-2-409**, (Renumbered from 63M-1-1109, as renumbered and amended by Laws of
186 Utah 2008, Chapter 382)
- 187 **63N-2-410**, (Renumbered from 63M-1-1110, as renumbered and amended by Laws of
188 Utah 2008, Chapter 382)
- 189 **63N-2-411**, (Renumbered from 63M-1-1111, as renumbered and amended by Laws of
190 Utah 2008, Chapter 382)
- 191 **63N-2-412**, (Renumbered from 63M-1-1112, as last amended by Laws of Utah 2011,
192 Chapter 392)
- 193 **63N-2-501**, (Renumbered from 63M-1-3401, as enacted by Laws of Utah 2014, Chapter
194 429)
- 195 **63N-2-502**, (Renumbered from 63M-1-3402, as enacted by Laws of Utah 2014, Chapter
196 429)
- 197 **63N-2-503**, (Renumbered from 63M-1-3403, as enacted by Laws of Utah 2014, Chapter
198 429)
- 199 **63N-2-504**, (Renumbered from 63M-1-3404, as enacted by Laws of Utah 2014, Chapter
200 429)
- 201 **63N-2-505**, (Renumbered from 63M-1-3405, as enacted by Laws of Utah 2014, Chapter
202 429)
- 203 **63N-2-506**, (Renumbered from 63M-1-3406, as enacted by Laws of Utah 2014, Chapter
204 429)
- 205 **63N-2-507**, (Renumbered from 63M-1-3407, as enacted by Laws of Utah 2014, Chapter
206 429)
- 207 **63N-2-508**, (Renumbered from 63M-1-3408, as enacted by Laws of Utah 2014, Chapter
208 429)
- 209 **63N-2-509**, (Renumbered from 63M-1-3409, as enacted by Laws of Utah 2014, Chapter
210 429)
- 211 **63N-2-510**, (Renumbered from 63M-1-3410, as enacted by Laws of Utah 2014, Chapter
212 429)
- 213 **63N-2-511**, (Renumbered from 63M-1-3411, as enacted by Laws of Utah 2014, Chapter

214 429)
215 **63N-2-512**, (Renumbered from 63M-1-3412, as enacted by Laws of Utah 2014, Chapter
216 429)
217 **63N-2-513**, (Renumbered from 63M-1-3413, as enacted by Laws of Utah 2014, Chapter
218 429)
219 **63N-2-601**, (Renumbered from 63M-1-3501, as enacted by Laws of Utah 2014, Chapter
220 435)
221 **63N-2-602**, (Renumbered from 63M-1-3502, as enacted by Laws of Utah 2014, Chapter
222 435)
223 **63N-2-603**, (Renumbered from 63M-1-3503, as enacted by Laws of Utah 2014, Chapter
224 435)
225 **63N-2-604**, (Renumbered from 63M-1-3504, as enacted by Laws of Utah 2014, Chapter
226 435)
227 **63N-2-605**, (Renumbered from 63M-1-3505, as enacted by Laws of Utah 2014, Chapter
228 435)
229 **63N-2-606**, (Renumbered from 63M-1-3506, as enacted by Laws of Utah 2014, Chapter
230 435)
231 **63N-2-607**, (Renumbered from 63M-1-3507, as enacted by Laws of Utah 2014, Chapter
232 435)
233 **63N-2-608**, (Renumbered from 63M-1-3508, as enacted by Laws of Utah 2014, Chapter
234 435)
235 **63N-2-609**, (Renumbered from 63M-1-3509, as enacted by Laws of Utah 2014, Chapter
236 435)
237 **63N-2-610**, (Renumbered from 63M-1-3510, as enacted by Laws of Utah 2014, Chapter
238 435)
239 **63N-2-611**, (Renumbered from 63M-1-3511, as enacted by Laws of Utah 2014, Chapter
240 435)
241 **63N-2-612**, (Renumbered from 63M-1-3512, as enacted by Laws of Utah 2014, Chapter
242 435)
243 **63N-2-701**, (Renumbered from 63M-1-3101, as enacted by Laws of Utah 2012, Chapter
244 410)

245 **63N-2-702**, (Renumbered from 63M-1-3102, as enacted by Laws of Utah 2012, Chapter
246 410)

247 **63N-2-703**, (Renumbered from 63M-1-3103, as enacted by Laws of Utah 2012, Chapter
248 410)

249 **63N-2-704**, (Renumbered from 63M-1-3104, as enacted by Laws of Utah 2012, Chapter
250 410)

251 **63N-2-705**, (Renumbered from 63M-1-3105, as last amended by Laws of Utah 2014,
252 Chapter 371)

253 **63N-2-801**, (Renumbered from 63M-1-2901, as enacted by Laws of Utah 2011, Chapter
254 306)

255 **63N-2-802**, (Renumbered from 63M-1-2902, as last amended by Laws of Utah 2012,
256 Chapter 423)

257 **63N-2-803**, (Renumbered from 63M-1-2903, as last amended by Laws of Utah 2012,
258 Chapter 423)

259 **63N-2-804**, (Renumbered from 63M-1-2904, as enacted by Laws of Utah 2011, Chapter
260 306)

261 **63N-2-805**, (Renumbered from 63M-1-2905, as last amended by Laws of Utah 2012,
262 Chapter 423)

263 **63N-2-806**, (Renumbered from 63M-1-2906, as enacted by Laws of Utah 2011, Chapter
264 306)

265 **63N-2-807**, (Renumbered from 63M-1-2907, as enacted by Laws of Utah 2011, Chapter
266 306)

267 **63N-2-808**, (Renumbered from 63M-1-2908, as last amended by Laws of Utah 2012,
268 Chapter 423)

269 **63N-2-809**, (Renumbered from 63M-1-2909, as last amended by Laws of Utah 2012,
270 Chapter 423)

271 **63N-2-810**, (Renumbered from 63M-1-2910, as last amended by Laws of Utah 2014,
272 Chapter 371)

273 **63N-2-811**, (Renumbered from 63M-1-2911, as last amended by Laws of Utah 2013,
274 Chapter 310)

275 **63N-3-101**, (Renumbered from 63M-1-901, as renumbered and amended by Laws of

276 Utah 2008, Chapter 382)
277 **63N-3-102**, (Renumbered from 63M-1-902, as last amended by Laws of Utah 2010,
278 Chapters 245 and 278)
279 **63N-3-103**, (Renumbered from 63M-1-903, as last amended by Laws of Utah 2014,
280 Chapter 435)
281 **63N-3-104**, (Renumbered from 63M-1-904, as last amended by Laws of Utah 2014,
282 Chapter 371)
283 **63N-3-105**, (Renumbered from 63M-1-906, as last amended by Laws of Utah 2012,
284 Chapter 208)
285 **63N-3-106**, (Renumbered from 63M-1-905, as last amended by Laws of Utah 2011,
286 Chapters 211 and 303)
287 **63N-3-107**, (Renumbered from 63M-1-907, as renumbered and amended by Laws of
288 Utah 2008, Chapter 382)
289 **63N-3-108**, (Renumbered from 63M-1-908, as last amended by Laws of Utah 2010,
290 Chapter 278)
291 **63N-3-109**, (Renumbered from 63M-1-909, as last amended by Laws of Utah 2013,
292 Chapter 173)
293 **63N-3-110**, (Renumbered from 63M-1-909.5, as last amended by Laws of Utah 2013,
294 Chapter 173)
295 **63N-3-111**, (Renumbered from 63M-1-910, as last amended by Laws of Utah 2013,
296 Chapter 310)
297 **63N-3-201**, (Renumbered from 63M-1-701, as last amended by Laws of Utah 2011,
298 Chapter 392)
299 **63N-3-202**, (Renumbered from 63M-1-702, as last amended by Laws of Utah 2014,
300 Chapter 418)
301 **63N-3-203**, (Renumbered from 63M-1-703, as last amended by Laws of Utah 2014,
302 Chapter 418)
303 **63N-3-204**, (Renumbered from 63M-1-704, as last amended by Laws of Utah 2014,
304 Chapters 371, 418 and last amended by Coordination Clause, Laws of Utah 2014,
305 Chapter 418)
306 **63N-3-205**, (Renumbered from 63M-1-705, as last amended by Laws of Utah 2011,

307 Chapter 392)
308 **63N-3-301**, (Renumbered from 63M-1-2701, as enacted by Laws of Utah 2008, Chapter
309 50)
310 **63N-3-302**, (Renumbered from 63M-1-2702, as enacted by Laws of Utah 2008, Chapter
311 50)
312 **63N-3-303**, (Renumbered from 63M-1-2703, as enacted by Laws of Utah 2008, Chapter
313 50)
314 **63N-3-304**, (Renumbered from 63M-1-2704, as last amended by Laws of Utah 2014,
315 Chapter 371)
316 **63N-3-305**, (Renumbered from 63M-1-2705, as enacted by Laws of Utah 2008, Chapter
317 50)
318 **63N-3-306**, (Renumbered from 63M-1-2706, as last amended by Laws of Utah 2011,
319 Chapter 112)
320 **63N-3-307**, (Renumbered from 63M-1-2707, as last amended by Laws of Utah 2011,
321 Chapter 112)
322 **63N-3-401**, (Renumbered from 63M-1-2201, as renumbered and amended by Laws of
323 Utah 2008, Chapter 382)
324 **63N-3-402**, (Renumbered from 63M-1-2202, as renumbered and amended by Laws of
325 Utah 2008, Chapter 382)
326 **63N-3-403**, (Renumbered from 63M-1-2203, as last amended by Laws of Utah 2013,
327 Chapter 400)
328 **63N-4-101**, (Renumbered from 63M-1-1601, as renumbered and amended by Laws of
329 Utah 2008, Chapter 382)
330 **63N-4-102**, (Renumbered from 63M-1-1602, as last amended by Laws of Utah 2008,
331 Chapter 381 and renumbered and amended by Laws of Utah 2008, Chapter 382)
332 **63N-4-103**, (Renumbered from 63M-1-1603, as last amended by Laws of Utah 2014,
333 Chapter 259)
334 **63N-4-104**, (Renumbered from 63M-1-1604, as last amended by Laws of Utah 2014,
335 Chapter 259)
336 **63N-4-105**, (Renumbered from 63M-1-1605, as last amended by Laws of Utah 2014,
337 Chapter 259)

- 338 **63N-4-106**, (Renumbered from 63M-1-1606, as last amended by Laws of Utah 2014,
339 Chapter 371)
- 340 **63N-4-201**, (Renumbered from 63M-1-2001, as renumbered and amended by Laws of
341 Utah 2008, Chapter 382)
- 342 **63N-4-202**, (Renumbered from 63M-1-2002, as last amended by Laws of Utah 2014,
343 Chapter 203)
- 344 **63N-4-203**, (Renumbered from 63M-1-2004, as last amended by Laws of Utah 2014,
345 Chapter 203)
- 346 **63N-4-204**, (Renumbered from 63M-1-2005, as renumbered and amended by Laws of
347 Utah 2008, Chapter 382)
- 348 **63N-4-205**, (Renumbered from 63M-1-2006, as last amended by Laws of Utah 2014,
349 Chapter 371)
- 350 **63N-5-101**, (Renumbered from 63M-1-3001, as renumbered and amended by Laws of
351 Utah 2011, Chapter 370)
- 352 **63N-5-102**, (Renumbered from 63M-1-3002, as renumbered and amended by Laws of
353 Utah 2011, Chapter 370)
- 354 **63N-5-103**, (Renumbered from 63M-1-3003, as renumbered and amended by Laws of
355 Utah 2011, Chapter 370)
- 356 **63N-5-104**, (Renumbered from 63M-1-3004, as renumbered and amended by Laws of
357 Utah 2011, Chapter 370)
- 358 **63N-5-105**, (Renumbered from 63M-1-3005, as renumbered and amended by Laws of
359 Utah 2011, Chapter 370)
- 360 **63N-5-106**, (Renumbered from 63M-1-3006, as renumbered and amended by Laws of
361 Utah 2011, Chapter 370)
- 362 **63N-5-107**, (Renumbered from 63M-1-3007, as renumbered and amended by Laws of
363 Utah 2011, Chapter 370)
- 364 **63N-5-108**, (Renumbered from 63M-1-3008, as renumbered and amended by Laws of
365 Utah 2011, Chapter 370)
- 366 **63N-5-109**, (Renumbered from 63M-1-3009, as renumbered and amended by Laws of
367 Utah 2011, Chapter 370)
- 368 **63N-6-101**, (Renumbered from 63M-1-1201, as renumbered and amended by Laws of

- 369 Utah 2008, Chapter 382)
- 370 **63N-6-102**, (Renumbered from 63M-1-1202, as renumbered and amended by Laws of
371 Utah 2008, Chapter 382)
- 372 **63N-6-103**, (Renumbered from 63M-1-1203, as last amended by Laws of Utah 2014,
373 Chapter 334)
- 374 **63N-6-201**, (Renumbered from 63M-1-1204, as renumbered and amended by Laws of
375 Utah 2008, Chapter 382)
- 376 **63N-6-202**, (Renumbered from 63M-1-1205, as last amended by Laws of Utah 2014,
377 Chapter 334)
- 378 **63N-6-203**, (Renumbered from 63M-1-1206, as last amended by Laws of Utah 2014,
379 Chapters 334, 371 and last amended by Coordination Clause, Laws of Utah 2014,
380 Chapter 334)
- 381 **63N-6-301**, (Renumbered from 63M-1-1207, as last amended by Laws of Utah 2011,
382 Chapter 342)
- 383 **63N-6-302**, (Renumbered from 63M-1-1208, as renumbered and amended by Laws of
384 Utah 2008, Chapter 382)
- 385 **63N-6-303**, (Renumbered from 63M-1-1209, as renumbered and amended by Laws of
386 Utah 2008, Chapter 382)
- 387 **63N-6-304**, (Renumbered from 63M-1-1210, as renumbered and amended by Laws of
388 Utah 2008, Chapter 382)
- 389 **63N-6-305**, (Renumbered from 63M-1-1211, as last amended by Laws of Utah 2010,
390 Chapter 278)
- 391 **63N-6-306**, (Renumbered from 63M-1-1212, as renumbered and amended by Laws of
392 Utah 2008, Chapter 382)
- 393 **63N-6-401**, (Renumbered from 63M-1-1213, as last amended by Laws of Utah 2008,
394 Chapter 18 and renumbered and amended by Laws of Utah 2008, Chapter 382)
- 395 **63N-6-402**, (Renumbered from 63M-1-1214, as last amended by Laws of Utah 2014,
396 Chapter 334)
- 397 **63N-6-403**, (Renumbered from 63M-1-1215, as renumbered and amended by Laws of
398 Utah 2008, Chapter 382)
- 399 **63N-6-404**, (Renumbered from 63M-1-1216, as last amended by Laws of Utah 2008,

400 Chapter 18 and renumbered and amended by Laws of Utah 2008, Chapter 382)
401 **63N-6-405**, (Renumbered from 63M-1-1217, as last amended by Laws of Utah 2014,
402 Chapter 334)
403 **63N-6-406**, (Renumbered from 63M-1-1218, as last amended by Laws of Utah 2014,
404 Chapter 334)
405 **63N-6-407**, (Renumbered from 63M-1-1219, as renumbered and amended by Laws of
406 Utah 2008, Chapter 382)
407 **63N-6-408**, (Renumbered from 63M-1-1220, as renumbered and amended by Laws of
408 Utah 2008, Chapter 382)
409 **63N-6-409**, (Renumbered from 63M-1-1221, as renumbered and amended by Laws of
410 Utah 2008, Chapter 382)
411 **63N-6-410**, (Renumbered from 63M-1-1222, as renumbered and amended by Laws of
412 Utah 2008, Chapter 382)
413 **63N-6-411**, (Renumbered from 63M-1-1223, as last amended by Laws of Utah 2013,
414 Chapter 73)
415 **63N-6-412**, (Renumbered from 63M-1-1224, as last amended by Laws of Utah 2008,
416 Chapter 18 and renumbered and amended by Laws of Utah 2008, Chapter 382)
417 **63N-7-101**, (Renumbered from 63M-1-1401, as renumbered and amended by Laws of
418 Utah 2008, Chapter 382)
419 **63N-7-102**, (Renumbered from 63M-1-1402, as last amended by Laws of Utah 2010,
420 Chapter 286)
421 **63N-7-103**, (Renumbered from 63M-1-1403, as last amended by Laws of Utah 2014,
422 Chapter 429)
423 **63N-7-201**, (Renumbered from 63M-1-1404, as last amended by Laws of Utah 2014,
424 Chapter 371)
425 **63N-7-202**, (Renumbered from 63M-1-1405, as renumbered and amended by Laws of
426 Utah 2008, Chapter 382)
427 **63N-7-301**, (Renumbered from 63M-1-1406, as last amended by Laws of Utah 2014,
428 Chapter 423)
429 **63N-8-101**, (Renumbered from 63M-1-1801, as last amended by Laws of Utah 2009,
430 Chapter 135)

- 431 **63N-8-102**, (Renumbered from 63M-1-1802, as last amended by Laws of Utah 2011,
432 Chapter 338)
- 433 **63N-8-103**, (Renumbered from 63M-1-1803, as last amended by Laws of Utah 2011,
434 Chapter 338)
- 435 **63N-8-104**, (Renumbered from 63M-1-1804, as last amended by Laws of Utah 2011,
436 Chapter 338)
- 437 **63N-8-105**, (Renumbered from 63M-1-1805, as last amended by Laws of Utah 2014,
438 Chapter 371)
- 439 **63N-9-101**, (Renumbered from 63M-1-3301, as enacted by Laws of Utah 2013, Chapter
440 25)
- 441 **63N-9-102**, (Renumbered from 63M-1-3302, as enacted by Laws of Utah 2013, Chapter
442 25)
- 443 **63N-9-103**, (Renumbered from 63M-1-3303, as enacted by Laws of Utah 2013, Chapter
444 25)
- 445 **63N-9-104**, (Renumbered from 63M-1-3304, as enacted by Laws of Utah 2013, Chapter
446 25)
- 447 **63N-9-105**, (Renumbered from 63M-1-3305, as enacted by Laws of Utah 2013, Chapter
448 25)
- 449 **63N-9-106**, (Renumbered from 63M-1-3306, as repealed and reenacted by Laws of
450 Utah 2014, Chapter 371)
- 451 **63N-10-101**, (Renumbered from 63C-11-101, as repealed and reenacted by Laws of
452 Utah 2009, Chapter 369)
- 453 **63N-10-102**, (Renumbered from 63C-11-102, as repealed and reenacted by Laws of
454 Utah 2009, Chapter 369)
- 455 **63N-10-201**, (Renumbered from 63C-11-201, as last amended by Laws of Utah 2010,
456 Chapter 286)
- 457 **63N-10-202**, (Renumbered from 63C-11-202, as repealed and reenacted by Laws of
458 Utah 2009, Chapter 369)
- 459 **63N-10-203**, (Renumbered from 63C-11-203, as enacted by Laws of Utah 2009,
460 Chapter 369)
- 461 **63N-10-204**, (Renumbered from 63C-11-204, as enacted by Laws of Utah 2009,

462 Chapter 369)
463 **63N-10-205**, (Renumbered from 63C-11-205, as enacted by Laws of Utah 2009,
464 Chapter 369)
465 **63N-10-301**, (Renumbered from 63C-11-301, as last amended by Laws of Utah 2011,
466 Chapter 342)
467 **63N-10-302**, (Renumbered from 63C-11-302, as repealed and reenacted by Laws of
468 Utah 2009, Chapter 369)
469 **63N-10-303**, (Renumbered from 63C-11-303, as repealed and reenacted by Laws of
470 Utah 2009, Chapter 369)
471 **63N-10-304**, (Renumbered from 63C-11-304, as last amended by Laws of Utah 2011,
472 Chapter 342)
473 **63N-10-305**, (Renumbered from 63C-11-305, as repealed and reenacted by Laws of
474 Utah 2009, Chapter 369)
475 **63N-10-306**, (Renumbered from 63C-11-306, as repealed and reenacted by Laws of
476 Utah 2009, Chapter 369)
477 **63N-10-307**, (Renumbered from 63C-11-307, as repealed and reenacted by Laws of
478 Utah 2009, Chapter 369)
479 **63N-10-308**, (Renumbered from 63C-11-308, as repealed and reenacted by Laws of
480 Utah 2009, Chapter 369)
481 **63N-10-309**, (Renumbered from 63C-11-309, as repealed and reenacted by Laws of
482 Utah 2009, Chapter 369)
483 **63N-10-310**, (Renumbered from 63C-11-310, as repealed and reenacted by Laws of
484 Utah 2009, Chapter 369)
485 **63N-10-311**, (Renumbered from 63C-11-311, as repealed and reenacted by Laws of
486 Utah 2009, Chapter 369)
487 **63N-10-312**, (Renumbered from 63C-11-312, as repealed and reenacted by Laws of
488 Utah 2009, Chapter 369)
489 **63N-10-313**, (Renumbered from 63C-11-313, as repealed and reenacted by Laws of
490 Utah 2009, Chapter 369)
491 **63N-10-314**, (Renumbered from 63C-11-314, as repealed and reenacted by Laws of
492 Utah 2009, Chapter 369)

- 493 **63N-10-315**, (Renumbered from 63C-11-315, as repealed and reenacted by Laws of
494 Utah 2009, Chapter 369)
- 495 **63N-10-316**, (Renumbered from 63C-11-316, as repealed and reenacted by Laws of
496 Utah 2009, Chapter 369)
- 497 **63N-10-317**, (Renumbered from 63C-11-317, as repealed and reenacted by Laws of
498 Utah 2009, Chapter 369)
- 499 **63N-10-318**, (Renumbered from 63C-11-318, as repealed and reenacted by Laws of
500 Utah 2009, Chapter 369)
- 501 **63N-11-101**, (Renumbered from 63M-1-2501, as enacted by Laws of Utah 2008,
502 Chapter 383)
- 503 **63N-11-102**, (Renumbered from 63M-1-2502, as enacted by Laws of Utah 2008,
504 Chapter 383)
- 505 **63N-11-103**, (Renumbered from 63M-1-2503, as enacted by Laws of Utah 2008,
506 Chapter 383)
- 507 **63N-11-104**, (Renumbered from 63M-1-2504, as last amended by Laws of Utah 2014,
508 Chapters 371 and 425)
- 509 **63N-11-105**, (Renumbered from 63M-1-2505, as enacted by Laws of Utah 2008,
510 Chapter 383)
- 511 **63N-11-106**, (Renumbered from 63M-1-2505.5, as last amended by Laws of Utah
512 2013, Chapter 341)
- 513 **63N-11-107**, (Renumbered from 63M-1-2506, as last amended by Laws of Utah 2011,
514 Chapter 400)
- 515 **63N-12-101**, (Renumbered from 63M-1-601, as renumbered and amended by Laws of
516 Utah 2008, Chapter 382)
- 517 **63N-12-102**, (Renumbered from 63M-1-602, as renumbered and amended by Laws of
518 Utah 2008, Chapter 382)
- 519 **63N-12-103**, (Renumbered from 63M-1-603, as renumbered and amended by Laws of
520 Utah 2008, Chapter 382)
- 521 **63N-12-104**, (Renumbered from 63M-1-604, as last amended by Laws of Utah 2012,
522 Chapter 212)
- 523 **63N-12-105**, (Renumbered from 63M-1-605, as last amended by Laws of Utah 2014,

524 Chapter 371)
525 **63N-12-106**, (Renumbered from 63M-1-606, as renumbered and amended by Laws of
526 Utah 2008, Chapter 382)
527 **63N-12-107**, (Renumbered from 63M-1-607, as renumbered and amended by Laws of
528 Utah 2008, Chapter 382)
529 **63N-12-108**, (Renumbered from 63M-1-608, as last amended by Laws of Utah 2013,
530 Chapter 336)
531 **63N-12-202**, (Renumbered from 63M-1-3201, as last amended by Laws of Utah 2014,
532 Chapter 318)
533 **63N-12-203**, (Renumbered from 63M-1-3202, as last amended by Laws of Utah 2014,
534 Chapter 318)
535 **63N-12-204**, (Renumbered from 63M-1-3203, as last amended by Laws of Utah 2014,
536 Chapters 189 and 318)
537 **63N-12-205**, (Renumbered from 63M-1-3204, as last amended by Laws of Utah 2014,
538 Chapters 63 and 318)
539 **63N-12-206**, (Renumbered from 63M-1-3205, as last amended by Laws of Utah 2014,
540 Chapter 318)
541 **63N-12-207**, (Renumbered from 63M-1-3206, as enacted by Laws of Utah 2013,
542 Chapter 336)
543 **63N-12-208**, (Renumbered from 63M-1-3207, as last amended by Laws of Utah 2014,
544 Chapters 318 and 371)
545 **63N-12-209**, (Renumbered from 63M-1-3208, as enacted by Laws of Utah 2014,
546 Chapter 318)
547 **63N-12-210**, (Renumbered from 63M-1-3209, as enacted by Laws of Utah 2014,
548 Chapter 318)
549 **63N-12-211**, (Renumbered from 63M-1-3210, as enacted by Laws of Utah 2014,
550 Chapter 318)
551 **63N-12-212**, (Renumbered from 63M-1-3211, as enacted by Laws of Utah 2014,
552 Chapter 318)
553 **63N-13-101**, (Renumbered from 63M-1-2101, as renumbered and amended by Laws of
554 Utah 2008, Chapter 382)

- 555 **63N-13-201**, (Renumbered from 63M-1-2601, as enacted by Laws of Utah 2008,
556 Chapter 352)
- 557 **63N-13-202**, (Renumbered from 63M-1-2602, as last amended by Laws of Utah 2012,
558 Chapter 347)
- 559 **63N-13-203**, (Renumbered from 63M-1-2603, as last amended by Laws of Utah 2013,
560 Chapters 310 and 310)
- 561 **63N-13-204**, (Renumbered from 63M-1-2604, as enacted by Laws of Utah 2008,
562 Chapter 352)
- 563 **63N-13-205**, (Renumbered from 63M-1-2605, as last amended by Laws of Utah 2012,
564 Chapter 347)
- 565 **63N-13-206**, (Renumbered from 63M-1-2606, as last amended by Laws of Utah 2013,
566 Chapters 310 and 310)
- 567 **63N-13-207**, (Renumbered from 63M-1-2607, as last amended by Laws of Utah 2013,
568 Chapters 310 and 310)
- 569 **63N-13-208**, (Renumbered from 63M-1-2608, as last amended by Laws of Utah 2012,
570 Chapter 347)
- 571 **63N-13-209**, (Renumbered from 63M-1-2609, as last amended by Laws of Utah 2013,
572 Chapter 310)
- 573 **63N-13-210**, (Renumbered from 63M-1-2610, as last amended by Laws of Utah 2012,
574 Chapter 347)
- 575 **63N-13-211**, (Renumbered from 63M-1-2611, as last amended by Laws of Utah 2010,
576 Chapter 286)
- 577 **63N-13-212**, (Renumbered from 63M-1-2612, as last amended by Laws of Utah 2013,
578 Chapters 310 and 400)
- 579 REPEALS:
- 580 **63M-1-204**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 581 **63M-1-207**, as enacted by Laws of Utah 2014, Chapter 427
- 582 **63M-1-301**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 583 **63M-1-304**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 584 **63M-1-801**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 585 **63M-1-802**, as renumbered and amended by Laws of Utah 2008, Chapter 382

- 586 [63M-1-1301](#), as enacted by Laws of Utah 2011, Chapter 236
- 587 [63M-1-1302](#), as enacted by Laws of Utah 2011, Chapter 236
- 588 [63M-1-1901](#), as last amended by Laws of Utah 2014, Chapter 371
- 589 [63M-1-2408](#), as last amended by Laws of Utah 2010, Chapters 164, 323, and 391

591 *Be it enacted by the Legislature of the state of Utah:*

592 Section 1. Section **17-31-9** is amended to read:

593 **17-31-9. Payment to Stay Another Day and Bounce Back Fund and Hotel Impact**
594 **Mitigation Fund.**

595 A county in which a qualified hotel, as defined in Section [[63M-1-3402](#)] [63N-2-502](#), is
596 located shall:

597 (1) make an annual payment to the Division of Finance:

598 (a) for deposit into the Stay Another Day and Bounce Back Fund, established in
599 Section [[63M-1-3411](#)] [63N-2-511](#);

600 (b) for any year in which the Governor's Office of Economic Development issues a tax
601 credit certificate, as defined in Section [[63M-1-3402](#)] [63N-2-502](#); and

602 (c) in the amount of 5% of the state portion, as defined in Section [[63M-1-3402](#)]
603 [63N-2-502](#); and

604 (2) make payments to the Division of Finance:

605 (a) for deposit into the Hotel Impact Mitigation Fund, created in Section [[63M-1-3412](#)]
606 [63N-2-512](#);

607 (b) for each year described in Subsection [[63M-1-3412](#)] [63N-2-512](#)(5)(a)(ii) during
608 which the balance of the Hotel Impact Mitigation Fund, defined in Section [[63M-1-3412](#)]
609 [63N-2-512](#), is less than \$2,100,000 before any payment for that year under Subsection
610 [[63M-1-3412](#)] [63N-2-512](#)(5)(a); and

611 (c) in the amount of the difference between \$2,100,000 and the balance of the Hotel
612 Impact Mitigation Fund, defined in Section [[63M-1-3412](#)] [63N-2-512](#), before any payment for
613 that year under Subsection [[63M-1-3412](#)] [63N-2-512](#)(5)(a).

614 Section 2. Section **26-18-14** is amended to read:

615 **26-18-14. Strategic plan for health system reform -- Medicaid program.**

616 The department, including the Division of Health Care Financing within the

617 department, shall:

618 (1) work with the Governor's Office of Economic Development, the Insurance
619 Department, the Department of Workforce Services, and the Legislature to develop health
620 system reform in accordance with the strategic plan described in Title ~~[63M]~~ 63N, Chapter ~~[‡]~~
621 11, ~~[Part 25,]~~ Health System Reform Act;

622 (2) develop and submit amendments and waivers for the state's Medicaid plan as
623 necessary to carry out the provisions of the Health System Reform Act;

624 (3) seek federal approval of an amendment to Utah's Premium Partnership for Health
625 Insurance that would allow the state's Medicaid program to subsidize the purchase of health
626 insurance by an individual who does not have access to employer sponsored health insurance;

627 (4) in coordination with the Department of Workforce Services:

628 (a) establish a Children's Health Insurance Program eligibility policy, consistent with
629 federal requirements and Subsection 26-40-105(1)(d), that prohibits enrollment of a child in the
630 program if the child's parent qualifies for assistance under Utah's Premium Partnership for
631 Health Insurance; and

632 (b) involve community partners, insurance agents and producers, community based
633 service organizations, and the education community to increase enrollment of eligible
634 employees and individuals in Utah's Premium Partnership for Health Insurance and the
635 Children's Health Insurance Program; and

636 (5) as funding permits, and in coordination with the department's adoption of standards
637 for the electronic exchange of clinical health data, help the private sector form an alliance of
638 employers, hospitals and other health care providers, patients, and health insurers to develop
639 and use evidence-based health care quality measures for the purpose of improving health care
640 decision making by health care providers, consumers, and third party payers.

641 Section 3. Section **26-18-18** is amended to read:

642 **26-18-18. Optional Medicaid expansion.**

643 (1) For purposes of this section PPACA is as defined in Section 31A-1-301.

644 (2) The department and the governor shall not expand the state's Medicaid program to
645 the optional population under PPACA unless:

646 (a) the Health Reform Task Force has completed a thorough analysis of a statewide
647 charity care system;

- 648 (b) the department and its contractors have:
- 649 (i) completed a thorough analysis of the impact to the state of expanding the state's
- 650 Medicaid program to optional populations under PPACA; and
- 651 (ii) made the analysis conducted under Subsection (2)(b)(i) available to the public;
- 652 (c) the governor or the governor's designee has reported the intention to expand the
- 653 state Medicaid program under PPACA to the Legislature in compliance with the legislative
- 654 review process in Sections [~~63M-1-2505.5~~] 63N-11-106 and 26-18-3; and
- 655 (d) notwithstanding Subsection 63J-5-103(2), the governor submits the request for
- 656 expansion of the Medicaid program for optional populations to the Legislature under the high
- 657 impact federal funds request process required by Section 63J-5-204, Legislative review and
- 658 approval of certain federal funds request.

659 Section 4. Section **31A-2-201.2** is amended to read:

660 **31A-2-201.2. Evaluation of health insurance market.**

- 661 (1) Each year the commissioner shall:
- 662 (a) conduct an evaluation of the state's health insurance market;
- 663 (b) report the findings of the evaluation to the Health and Human Services Interim
- 664 Committee before October 1 of each year; and
- 665 (c) publish the findings of the evaluation on the department website.
- 666 (2) The evaluation required by this section shall:
- 667 (a) analyze the effectiveness of the insurance regulations and statutes in promoting a
- 668 healthy, competitive health insurance market that meets the needs of the state, and includes an
- 669 analysis of:
 - 670 (i) the availability and marketing of individual and group products;
 - 671 (ii) rate changes;
 - 672 (iii) coverage and demographic changes;
 - 673 (iv) benefit trends;
 - 674 (v) market share changes; and
 - 675 (vi) accessibility;
- 676 (b) assess complaint ratios and trends within the health insurance market, which
- 677 assessment shall include complaint data from the Office of Consumer Health Assistance within
- 678 the department;

679 (c) contain recommendations for action to improve the overall effectiveness of the
680 health insurance market, administrative rules, and statutes; and

681 (d) include claims loss ratio data for each health insurance company doing business in
682 the state.

683 (3) When preparing the evaluation required by this section, the commissioner shall
684 include a report of:

685 (a) the types of health benefit plans sold in the Health Insurance Exchange created in
686 Section [~~63M-1-2504~~] 63N-11-104;

687 (b) the number of insurers participating in the defined contribution arrangement health
688 benefit plans in the Health Insurance Exchange; and

689 (c) the number of employers and covered lives in the defined contribution arrangement
690 market in the Health Insurance Exchange.

691 (4) When preparing the evaluation and report required by this section, the
692 commissioner may seek the input of insurers, employers, insured persons, providers, and others
693 with an interest in the health insurance market.

694 (5) The commissioner may adopt administrative rules for the purpose of collecting the
695 data required by this section, taking into account the business confidentiality of the insurers.

696 (6) Records submitted to the commissioner under this section shall be maintained by
697 the commissioner as protected records under Title 63G, Chapter 2, Government Records
698 Access and Management Act.

699 Section 5. Section **31A-2-212** is amended to read:

700 **31A-2-212. Miscellaneous duties.**

701 (1) Upon issuance of an order limiting, suspending, or revoking a person's authority to
702 do business in Utah, and when the commissioner begins a proceeding against an insurer under
703 Chapter 27a, Insurer Receivership Act, the commissioner:

704 (a) shall notify by mail the producers of the person or insurer of whom the
705 commissioner has record; and

706 (b) may publish notice of the order or proceeding in any manner the commissioner
707 considers necessary to protect the rights of the public.

708 (2) When required for evidence in a legal proceeding, the commissioner shall furnish a
709 certificate of authority of a licensee to transact the business of insurance in Utah on any

710 particular date. The court or other officer shall receive the certificate of authority in lieu of the
711 commissioner's testimony.

712 (3) (a) On the request of an insurer authorized to do a surety business, the
713 commissioner shall furnish a copy of the insurer's certificate of authority to a designated public
714 officer in this state who requires that certificate of authority before accepting a bond.

715 (b) The public officer described in Subsection (3)(a) shall file the certificate of
716 authority furnished under Subsection (3)(a).

717 (c) After a certified copy of a certificate of authority is furnished to a public officer, it
718 is not necessary, while the certificate of authority remains effective, to attach a copy of it to any
719 instrument of suretyship filed with that public officer.

720 (d) Whenever the commissioner revokes the certificate of authority or begins a
721 proceeding under Chapter 27a, Insurer Receivership Act, against an insurer authorized to do a
722 surety business, the commissioner shall immediately give notice of that action to each public
723 officer who is sent a certified copy under this Subsection (3).

724 (4) (a) The commissioner shall immediately notify every judge and clerk of the courts
725 of record in the state when:

726 (i) an authorized insurer doing a surety business:

727 (A) files a petition for receivership; or

728 (B) is in receivership; or

729 (ii) the commissioner has reason to believe that the authorized insurer doing surety
730 business:

731 (A) is in financial difficulty; or

732 (B) has unreasonably failed to carry out any of its contracts.

733 (b) Upon the receipt of the notice required by this Subsection (4), it is the duty of the
734 judges and clerks to notify and require a person that files with the court a bond on which the
735 authorized insurer doing surety business is surety to immediately file a new bond with a new
736 surety.

737 (5) (a) The commissioner shall report to the Legislature in accordance with Section
738 ~~[63M-1-2505.5]~~ 63N-11-106 prior to adopting a rule authorized by Subsection (5)(b).

739 (b) The commissioner shall require an insurer that issues, sells, renews, or offers health
740 insurance coverage in this state to comply with the provisions of PPACA and administrative

- 741 rules adopted by the commissioner related to regulation of health benefit plans, including:
- 742 (i) lifetime and annual limits;
- 743 (ii) prohibition of rescissions;
- 744 (iii) coverage of preventive health services;
- 745 (iv) coverage for a child or dependent;
- 746 (v) pre-existing condition coverage for children;
- 747 (vi) insurer transparency of consumer information including plan disclosures, uniform
- 748 coverage documents, and standard definitions;
- 749 (vii) premium rate reviews;
- 750 (viii) essential health benefits;
- 751 (ix) provider choice;
- 752 (x) waiting periods;
- 753 (xi) appeals processes;
- 754 (xii) rating restrictions;
- 755 (xiii) uniform applications and notice provisions; and
- 756 (xiv) certification and regulation of qualified health plans.
- 757 (c) The commissioner shall preserve state control over:
- 758 (i) the health insurance market in the state;
- 759 (ii) qualified health plans offered in the state; and
- 760 (iii) the conduct of navigators, producers, and in-person assisters operating in the state.
- 761 (d) If the state enters into an agreement with the United States Department of Health
- 762 and Human Services in which the state operates health insurance plan management, the
- 763 commissioner may:
- 764 (i) for fiscal year 2014, hire one temporary and two permanent full-time employees to
- 765 be funded through the department's existing budget; and
- 766 (ii) for fiscal year 2015, hire two permanent full-time employees funded through the
- 767 Insurance Department Restricted Account, subject to appropriations from the Legislature and
- 768 approval by the governor.
- 769 Section 6. Section **31A-2-218** is amended to read:
- 770 **31A-2-218. Strategic plan for health system reform.**
- 771 The commissioner and the department shall:

772 (1) work with the Governor's Office of Economic Development, the Department of
773 Health, the Department of Workforce Services, and the Legislature to develop health system
774 reform in accordance with the strategic plan described in Title ~~[63M]~~ 63N, Chapter ~~[†]~~ 11,
775 ~~[Part 25,]~~ Health System Reform Act;

776 (2) work with health insurers in accordance with Section 31A-22-635 to develop
777 standards for health insurance applications and compatible electronic systems;

778 (3) facilitate a private sector method for the collection of health insurance premium
779 payments made for a single policy by multiple payers, including the policyholder, one or more
780 employers of one or more individuals covered by the policy, government programs, and others
781 by educating employers and insurers about collection services available through private
782 vendors, including financial institutions;

783 (4) encourage health insurers to develop products that:

784 (a) encourage health care providers to follow best practice protocols;

785 (b) incorporate other health care quality improvement mechanisms; and

786 (c) incorporate rewards and incentives for healthy lifestyles and behaviors as permitted
787 by the Health Insurance Portability and Accountability Act;

788 (5) involve the Office of Consumer Health Assistance created in Section 31A-2-216, as
789 necessary, to accomplish the requirements of this section; and

790 (6) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
791 make rules, as necessary, to implement Subsections (2), (3), and (4).

792 Section 7. Section 31A-22-613.5 is amended to read:

793 **31A-22-613.5. Price and value comparisons of health insurance.**

794 (1) (a) This section applies to all health benefit plans.

795 (b) Subsection (2) applies to:

796 (i) all health benefit plans; and

797 (ii) coverage offered to state employees under Subsection 49-20-202(1)(a).

798 (2) (a) The commissioner shall promote informed consumer behavior and responsible
799 health benefit plans by requiring an insurer issuing a health benefit plan to:

800 (i) provide to all enrollees, prior to enrollment in the health benefit plan written
801 disclosure of:

802 (A) restrictions or limitations on prescription drugs and biologics including:

- 803 (I) the use of a formulary;
- 804 (II) co-payments and deductibles for prescription drugs; and
- 805 (III) requirements for generic substitution;
- 806 (B) coverage limits under the plan; and
- 807 (C) any limitation or exclusion of coverage including:
- 808 (I) a limitation or exclusion for a secondary medical condition related to a limitation or
- 809 exclusion from coverage; and
- 810 (II) easily understood examples of a limitation or exclusion of coverage for a secondary
- 811 medical condition; and
- 812 (ii) provide the commissioner with:
- 813 (A) the information described in Subsections 31A-22-635(5) through (7) in the
- 814 standardized electronic format required by Subsection [~~63M-1-2506~~] 63N-11-107(1); and
- 815 (B) information regarding insurer transparency in accordance with Subsection (4).
- 816 (b) An insurer shall provide the disclosure required by Subsection (2)(a)(i) in writing to
- 817 the commissioner:
- 818 (i) upon commencement of operations in the state; and
- 819 (ii) anytime the insurer amends any of the following described in Subsection (2)(a)(i):
- 820 (A) treatment policies;
- 821 (B) practice standards;
- 822 (C) restrictions;
- 823 (D) coverage limits of the insurer's health benefit plan or health insurance policy; or
- 824 (E) limitations or exclusions of coverage including a limitation or exclusion for a
- 825 secondary medical condition related to a limitation or exclusion of the insurer's health
- 826 insurance plan.
- 827 (c) An insurer shall provide the enrollee with notice of an increase in costs for
- 828 prescription drug coverage due to a change in benefit design under Subsection (2)(a)(i)(A):
- 829 (i) either:
- 830 (A) in writing; or
- 831 (B) on the insurer's website; and
- 832 (ii) at least 30 days prior to the date of the implementation of the increase in cost, or as
- 833 soon as reasonably possible.

834 (d) If under Subsection (2)(a)(i)(A) a formulary is used, the insurer shall make
835 available to prospective enrollees and maintain evidence of the fact of the disclosure of:

- 836 (i) the drugs included;
- 837 (ii) the patented drugs not included;
- 838 (iii) any conditions that exist as a precedent to coverage; and
- 839 (iv) any exclusion from coverage for secondary medical conditions that may result
840 from the use of an excluded drug.

841 (e) (i) The commissioner shall develop examples of limitations or exclusions of a
842 secondary medical condition that an insurer may use under Subsection (2)(a)(i)(C).

843 (ii) Examples of a limitation or exclusion of coverage provided under Subsection
844 (2)(a)(i)(C) or otherwise are for illustrative purposes only, and the failure of a particular fact
845 situation to fall within the description of an example does not, by itself, support a finding of
846 coverage.

847 (3) The commissioner:

848 (a) shall forward the information submitted by an insurer under Subsection (2)(a)(ii) to
849 the Health Insurance Exchange created under Section [~~63M-1-2504~~] 63N-11-104; and

850 (b) may request information from an insurer to verify the information submitted by the
851 insurer under this section.

852 (4) The commissioner shall:

853 (a) convene a group of insurers, a member representing the Public Employees' Benefit
854 and Insurance Program, consumers, and an organization that provides multipayer and
855 multiprovider quality assurance and data collection, to develop information for consumers to
856 compare health insurers and health benefit plans on the Health Insurance Exchange, which
857 shall include consideration of:

- 858 (i) the number and cost of an insurer's denied health claims;
- 859 (ii) the cost of denied claims that is transferred to providers;
- 860 (iii) the average out-of-pocket expenses incurred by participants in each health benefit
861 plan that is offered by an insurer in the Health Insurance Exchange;
- 862 (iv) the relative efficiency and quality of claims administration and other administrative
863 processes for each insurer offering plans in the Health Insurance Exchange; and
- 864 (v) consumer assessment of each insurer or health benefit plan;

865 (b) adopt an administrative rule that establishes:

866 (i) definition of terms;

867 (ii) the methodology for determining and comparing the insurer transparency
868 information;

869 (iii) the data, and format of the data, that an insurer shall submit to the commissioner in
870 order to facilitate the consumer comparison on the Health Insurance Exchange in accordance
871 with Section [~~63M-1-2506~~] 63N-11-107; and

872 (iv) the dates on which the insurer shall submit the data to the commissioner in order
873 for the commissioner to transmit the data to the Health Insurance Exchange in accordance with
874 Section [~~63M-1-2506~~] 63N-11-107; and

875 (c) implement the rules adopted under Subsection (4)(b) in a manner that protects the
876 business confidentiality of the insurer.

877 Section 8. Section **31A-22-635** is amended to read:

878 **31A-22-635. Uniform application -- Uniform waiver of coverage -- Information**
879 **on Health Insurance Exchange.**

880 (1) For purposes of this section, "insurer":

881 (a) is defined in Subsection 31A-22-634(1); and

882 (b) includes the state employee's risk pool under Section 49-20-202.

883 (2) (a) Insurers offering a health benefit plan to an individual or small employer shall
884 use a uniform application form.

885 (b) The uniform application form:

886 (i) may not include questions about an applicant's health history; and

887 (ii) shall be shortened and simplified in accordance with rules adopted by the
888 commissioner.

889 (c) Insurers offering a health benefit plan to a small employer shall use a uniform
890 waiver of coverage form, which may not include health status related questions, and is limited
891 to:

892 (i) information that identifies the employee;

893 (ii) proof of the employee's insurance coverage; and

894 (iii) a statement that the employee declines coverage with a particular employer group.

895 (3) Notwithstanding the requirements of Subsection (2)(a), the uniform application and

896 uniform waiver of coverage forms may, if the combination or modification is approved by the
897 commissioner, be combined or modified to facilitate a more efficient and consumer friendly
898 experience for:

899 (a) enrollees using the Health Insurance Exchange; or

900 (b) insurers using electronic applications.

901 (4) The uniform application form, and uniform waiver form, shall be adopted and
902 approved by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative
903 Rulemaking Act.

904 (5) (a) An insurer who offers a health benefit plan on the Health Insurance Exchange
905 created in Section [~~63M-1-2504~~] 63N-11-104, shall:

906 (i) accept and process an electronic submission of the uniform application or uniform
907 waiver from the Health Insurance Exchange using the electronic standards adopted pursuant to
908 Section [~~63M-1-2506~~] 63N-11-107;

909 (ii) if requested, provide the applicant with a copy of the completed application either
910 by mail or electronically;

911 (iii) post all health benefit plans offered by the insurer in the defined contribution
912 arrangement market on the Health Insurance Exchange; and

913 (iv) post the information required by Subsection (6) on the Health Insurance Exchange
914 for every health benefit plan the insurer offers on the Health Insurance Exchange.

915 (b) Except as provided in Subsection (5)(c), an insurer who posts health benefit plans
916 on the Health Insurance Exchange may not directly or indirectly offer products on the Health
917 Insurance Exchange that are not health benefit plans.

918 (c) Notwithstanding Subsection (5)(b):

919 (i) an insurer may offer a health savings account on the Health Insurance Exchange;

920 (ii) an insurer may offer dental plans on the Health Insurance Exchange; and

921 (iii) the department may make administrative rules to regulate the offer of dental plans
922 on the Health Insurance Exchange.

923 (6) An insurer shall provide the commissioner and the Health Insurance Exchange with
924 the following information for each health benefit plan submitted to the Health Insurance
925 Exchange, in the electronic format required by Subsection [~~63M-1-2506~~] 63N-11-107(1):

926 (a) plan design, benefits, and options offered by the health benefit plan including state

927 mandates the plan does not cover;

928 (b) information and Internet address to online provider networks;

929 (c) wellness programs and incentives;

930 (d) descriptions of prescription drug benefits, exclusions, or limitations;

931 (e) the percentage of claims paid by the insurer within 30 days of the date a claim is
932 submitted to the insurer for the prior year; and

933 (f) the claims denial and insurer transparency information developed in accordance
934 with Subsection [31A-22-613.5](#)(4).

935 (7) The department shall post on the Health Insurance Exchange the department's
936 solvency rating for each insurer who posts a health benefit plan on the Health Insurance
937 Exchange. The solvency rating for each insurer shall be based on methodology established by
938 the department by administrative rule and shall be updated each calendar year.

939 (8) (a) The commissioner may request information from an insurer under Section
940 [31A-22-613.5](#) to verify the data submitted to the department and to the Health Insurance
941 Exchange.

942 (b) The commissioner shall regulate the fees charged by insurers to an enrollee for a
943 uniform application form or electronic submission of the application forms.

944 Section 9. Section [31A-22-726](#) is amended to read:

945 **[31A-22-726. Abortion coverage restriction in health benefit plan and on health](#)**
946 **[insurance exchange.](#)**

947 (1) As used in this section, "permitted abortion coverage" means coverage for abortion:

948 (a) that is necessary to avert:

949 (i) the death of the woman on whom the abortion is performed; or

950 (ii) a serious risk of substantial and irreversible impairment of a major bodily function
951 of the woman on whom the abortion is performed;

952 (b) of a fetus that has a defect that is documented by a physician or physicians to be
953 uniformly diagnosable and uniformly lethal; or

954 (c) where the woman is pregnant as a result of:

955 (i) rape, as described in Section [76-5-402](#);

956 (ii) rape of a child, as described in Section [76-5-402.1](#); or

957 (iii) incest, as described in Subsection [76-5-406](#)(10) or Section [76-7-102](#).

958 (2) A person may not offer coverage for an abortion in a health benefit plan, unless the
959 coverage is a type of permitted abortion coverage.

960 (3) A person may not offer a health benefit plan that provides coverage for an abortion
961 in a health insurance exchange created under Title ~~[63M]~~ 63N, Chapter ~~[†]~~ 11, ~~[Part 25,]~~
962 Health System Reform Act, unless the coverage is a type of permitted abortion coverage.

963 (4) A person may not offer a health benefit plan that provides coverage for an abortion
964 in a health insurance exchange created under the federal Patient Protection and Affordable Care
965 Act, 111 P.L. 148, unless the coverage is a type of permitted abortion coverage.

966 Section 10. Section **31A-23a-402** is amended to read:

967 **31A-23a-402. Unfair marketing practices -- Communication -- Unfair**
968 **discrimination -- Coercion or intimidation -- Restriction on choice.**

969 (1) (a) (i) Any of the following may not make or cause to be made any communication
970 that contains false or misleading information, relating to an insurance product or contract, any
971 insurer, or any licensee under this title, including information that is false or misleading
972 because it is incomplete:

973 (A) a person who is or should be licensed under this title;

974 (B) an employee or producer of a person described in Subsection (1)(a)(i)(A);

975 (C) a person whose primary interest is as a competitor of a person licensed under this
976 title; and

977 (D) a person on behalf of any of the persons listed in this Subsection (1)(a)(i).

978 (ii) As used in this Subsection (1), "false or misleading information" includes:

979 (A) assuring the nonobligatory payment of future dividends or refunds of unused
980 premiums in any specific or approximate amounts, but reporting fully and accurately past
981 experience is not false or misleading information; and

982 (B) with intent to deceive a person examining it:

983 (I) filing a report;

984 (II) making a false entry in a record; or

985 (III) wilfully refraining from making a proper entry in a record.

986 (iii) A licensee under this title may not:

987 (A) use any business name, slogan, emblem, or related device that is misleading or

988 likely to cause the insurer or other licensee to be mistaken for another insurer or other licensee

989 already in business; or

990 (B) use any advertisement or other insurance promotional material that would cause a
991 reasonable person to mistakenly believe that a state or federal government agency, including
992 the Health Insurance Exchange, also called the "Utah Health Exchange," created in Section
993 [~~63M-1-2504~~] 63N-11-104, the Comprehensive Health Insurance Pool created in Chapter 29,
994 Comprehensive Health Insurance Pool Act, and the Children's Health Insurance Program
995 created in Title 26, Chapter 40, Utah Children's Health Insurance Act:

996 (I) is responsible for the insurance sales activities of the person;

997 (II) stands behind the credit of the person;

998 (III) guarantees any returns on insurance products of or sold by the person; or

999 (IV) is a source of payment of any insurance obligation of or sold by the person.

1000 (iv) A person who is not an insurer may not assume or use any name that deceptively
1001 implies or suggests that person is an insurer.

1002 (v) A person other than persons licensed as health maintenance organizations under
1003 Chapter 8 may not use the term "Health Maintenance Organization" or "HMO" in referring to
1004 itself.

1005 (b) A licensee's violation creates a rebuttable presumption that the violation was also
1006 committed by the insurer if:

1007 (i) the licensee under this title distributes cards or documents, exhibits a sign, or
1008 publishes an advertisement that violates Subsection (1)(a), with reference to a particular
1009 insurer:

1010 (A) that the licensee represents; or

1011 (B) for whom the licensee processes claims; and

1012 (ii) the cards, documents, signs, or advertisements are supplied or approved by that
1013 insurer.

1014 (2) (a) A title insurer, individual title insurance producer, or agency title insurance
1015 producer or any officer or employee of the title insurer, individual title insurance producer, or
1016 agency title insurance producer may not pay, allow, give, or offer to pay, allow, or give,
1017 directly or indirectly, as an inducement to obtaining any title insurance business:

1018 (i) any rebate, reduction, or abatement of any rate or charge made incident to the
1019 issuance of the title insurance;

1020 (ii) any special favor or advantage not generally available to others;
1021 (iii) any money or other consideration, except if approved under Section 31A-2-405; or
1022 (iv) material inducement.

1023 (b) "Charge made incident to the issuance of the title insurance" includes escrow
1024 charges, and any other services that are prescribed in rule by the Title and Escrow Commission
1025 after consultation with the commissioner and subject to Section 31A-2-404.

1026 (c) An insured or any other person connected, directly or indirectly, with the
1027 transaction may not knowingly receive or accept, directly or indirectly, any benefit referred to
1028 in Subsection (2)(a), including:

1029 (i) a person licensed under Title 61, Chapter 2c, Utah Residential Mortgage Practices
1030 and Licensing Act;

1031 (ii) a person licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices
1032 Act;

1033 (iii) a builder;

1034 (iv) an attorney; or

1035 (v) an officer, employee, or agent of a person listed in this Subsection (2)(c)(iii).

1036 (3) (a) An insurer may not unfairly discriminate among policyholders by charging
1037 different premiums or by offering different terms of coverage, except on the basis of
1038 classifications related to the nature and the degree of the risk covered or the expenses involved.

1039 (b) Rates are not unfairly discriminatory if they are averaged broadly among persons
1040 insured under a group, blanket, or franchise policy, and the terms of those policies are not
1041 unfairly discriminatory merely because they are more favorable than in similar individual
1042 policies.

1043 (4) (a) This Subsection (4) applies to:

1044 (i) a person who is or should be licensed under this title;

1045 (ii) an employee of that licensee or person who should be licensed;

1046 (iii) a person whose primary interest is as a competitor of a person licensed under this
1047 title; and

1048 (iv) one acting on behalf of any person described in Subsections (4)(a)(i) through (iii).

1049 (b) A person described in Subsection (4)(a) may not commit or enter into any
1050 agreement to participate in any act of boycott, coercion, or intimidation that:

- 1051 (i) tends to produce:
- 1052 (A) an unreasonable restraint of the business of insurance; or
- 1053 (B) a monopoly in that business; or
- 1054 (ii) results in an applicant purchasing or replacing an insurance contract.
- 1055 (5) (a) (i) Subject to Subsection (5)(a)(ii), a person may not restrict in the choice of an
- 1056 insurer or licensee under this chapter, another person who is required to pay for insurance as a
- 1057 condition for the conclusion of a contract or other transaction or for the exercise of any right
- 1058 under a contract.
- 1059 (ii) A person requiring coverage may reserve the right to disapprove the insurer or the
- 1060 coverage selected on reasonable grounds.
- 1061 (b) The form of corporate organization of an insurer authorized to do business in this
- 1062 state is not a reasonable ground for disapproval, and the commissioner may by rule specify
- 1063 additional grounds that are not reasonable. This Subsection (5) does not bar an insurer from
- 1064 declining an application for insurance.
- 1065 (6) A person may not make any charge other than insurance premiums and premium
- 1066 financing charges for the protection of property or of a security interest in property, as a
- 1067 condition for obtaining, renewing, or continuing the financing of a purchase of the property or
- 1068 the lending of money on the security of an interest in the property.
- 1069 (7) (a) A licensee under this title may not refuse or fail to return promptly all indicia of
- 1070 agency to the principal on demand.
- 1071 (b) A licensee whose license is suspended, limited, or revoked under Section
- 1072 [31A-2-308](#), [31A-23a-111](#), or [31A-23a-112](#) may not refuse or fail to return the license to the
- 1073 commissioner on demand.
- 1074 (8) (a) A person may not engage in an unfair method of competition or any other unfair
- 1075 or deceptive act or practice in the business of insurance, as defined by the commissioner by
- 1076 rule, after a finding that the method of competition, the act, or the practice:
- 1077 (i) is misleading;
- 1078 (ii) is deceptive;
- 1079 (iii) is unfairly discriminatory;
- 1080 (iv) provides an unfair inducement; or
- 1081 (v) unreasonably restrains competition.

1082 (b) Notwithstanding Subsection (8)(a), for purpose of the title insurance industry, the
1083 Title and Escrow Commission shall make rules, subject to Section 31A-2-404, that define an
1084 unfair method of competition or unfair or deceptive act or practice after a finding that the
1085 method of competition, the act, or the practice:

- 1086 (i) is misleading;
- 1087 (ii) is deceptive;
- 1088 (iii) is unfairly discriminatory;
- 1089 (iv) provides an unfair inducement; or
- 1090 (v) unreasonably restrains competition.

1091 Section 11. Section 31A-30-102 is amended to read:

1092 **31A-30-102. Purpose statement.**

1093 The purpose of this chapter is to:

- 1094 (1) prevent abusive rating practices;
- 1095 (2) require disclosure of rating practices to purchasers;
- 1096 (3) establish rules regarding:
 - 1097 (a) a universal individual and small group application; and
 - 1098 (b) renewability of coverage;
- 1099 (4) improve the overall fairness and efficiency of the individual and small group

1100 insurance market;

- 1101 (5) provide increased access for individuals and small employers to health insurance;

1102 and

- 1103 (6) provide an employer with the opportunity to establish a defined contribution
1104 arrangement for an employee to purchase a health benefit plan through the Health Insurance
1105 Exchange created by Section [~~63M-1-2504~~] 63N-11-104.

1106 Section 12. Section 31A-30-116 is amended to read:

1107 **31A-30-116. Essential health benefits.**

- 1108 (1) For purposes of this section, the "Affordable Care Act" is as defined in Section
1109 31A-2-212 and includes federal rules related to the offering of essential health benefits.
- 1110 (2) The state chooses to designate its own essential health benefits rather than accept a
1111 federal determination of the essential health benefits required to be offered in the individual
1112 and small group market for plans renewed or offered on or after January 1, 2014.

1113 (3) (a) Subject to Subsections (3)(b) and (c), to the extent required by the Affordable
1114 Care Act, and after considering public testimony, the Legislature's Health System Reform Task
1115 Force shall recommend to the commissioner, no later than September 1, 2012, a benchmark
1116 plan for the state's essential health benefits based on:

1117 (i) the largest plan by enrollment in any of the three largest small employer group
1118 insurance products in the state's small employer group market;

1119 (ii) any of the largest three state employee health benefit plans by enrollment;

1120 (iii) the largest insured commercial non-Medicaid health maintenance organization
1121 operating in the state; or

1122 (iv) other benchmarks required or permitted by the Affordable Care Act.

1123 (b) Notwithstanding the provisions of Subsection [63M-1-2505.5] 63N-11-106(2),
1124 based on the recommendation of the task force under Subsection (3)(a), and within 30 days of
1125 the task force recommendation, the commissioner shall adopt an emergency administrative rule
1126 that designates the essential health benefits that shall be included in a plan offered or renewed
1127 on or after January 1, 2014, in the small employer group and individual markets.

1128 (c) The essential health benefit plan:

1129 (i) shall not include a state mandate if the inclusion of the state mandate would require
1130 the state to contribute to premium subsidies under the Affordable Care Act; and

1131 (ii) may add benefits in addition to the benefits included in a benchmark plan described
1132 in Subsection (3)(b) if the additional benefits are mandated under the Affordable Care Act.

1133 Section 13. Section **31A-30-117** is amended to read:

1134 **31A-30-117. Patient Protection and Affordable Care Act -- Market transition.**

1135 (1) (a) After complying with the reporting requirements of Section [63M-1-2505.5]
1136 63N-11-106, the commissioner may adopt administrative rules that change the rating and
1137 underwriting requirements of this chapter as necessary to transition the insurance market to
1138 meet federal qualified health plan standards and rating practices under PPACA.

1139 (b) Administrative rules adopted by the commissioner under this section may include:

1140 (i) the regulation of health benefit plans as described in Subsections **31A-2-212(5)(a)**
1141 and (b); and

1142 (ii) disclosure of records and information required by PPACA and state law.

1143 (c) (i) The commissioner shall establish by administrative rule one statewide open

1144 enrollment period that applies to the individual insurance market that is not on the PPACA
1145 certified individual exchange.

1146 (ii) The statewide open enrollment period:

1147 (A) may be shorter, but no longer than the open enrollment period established for the
1148 individual insurance market offered in the PPACA certified exchange; and

1149 (B) may not be extended beyond the dates of the open enrollment period established
1150 for the individual insurance market offered in the PPACA certified exchange.

1151 (2) A carrier that offers health benefit plans in the individual market that is not part of
1152 the individual PPACA certified exchange:

1153 (a) shall open enrollment:

1154 (i) during the statewide open enrollment period established in Subsection (1)(c); and

1155 (ii) at other times, for qualifying events, as determined by administrative rule adopted
1156 by the commissioner; and

1157 (b) may open enrollment at any time.

1158 (3) To the extent permitted by the Centers for Medicare and Medicaid Services policy,
1159 or federal regulation, the commissioner shall allow a health insurer to choose to continue
1160 coverage and individuals and small employers to choose to re-enroll in coverage in
1161 nongrandfathered health coverage that is not in compliance with market reforms required by
1162 PPACA.

1163 Section 14. Section **31A-30-202** is amended to read:

1164 **31A-30-202. Definitions.**

1165 For purposes of this part:

1166 (1) "Defined benefit plan" means an employer group health benefit plan in which:

1167 (a) the employer selects the health benefit plan or plans from a single insurer;

1168 (b) employees are not provided a choice of health benefit plans on the Health Insurance
1169 Exchange; and

1170 (c) the employer is subject to contribution requirements in Section [31A-30-112](#).

1171 (2) "Defined contribution arrangement":

1172 (a) means a defined contribution arrangement employer group health benefit plan that:

1173 (i) complies with this part; and

1174 (ii) is sold through the Health Insurance Exchange in accordance with Title ~~[63M]~~

1175 63N, Chapter [†] 11, [~~Part 25~~] Health System Reform Act; and

1176 (b) beginning January 1, 2011, includes an employer choice of either a defined
1177 contribution arrangement health benefit plan or a defined benefit plan offered through the
1178 Health Insurance Exchange.

1179 (3) "Health reimbursement arrangement" means an employer provided health
1180 reimbursement arrangement in which reimbursements for medical care expenses are excluded
1181 from an employee's gross income under the Internal Revenue Code.

1182 (4) "Producer" is as defined in Subsection [31A-23a-501\(4\)\(a\)](#).

1183 (5) "Section 125 Cafeteria plan" means a flexible spending arrangement that qualifies
1184 under Section 125, Internal Revenue Code, which permits an employee to contribute pre-tax
1185 dollars to a health benefit plan.

1186 (6) "Small employer" is defined in Section [31A-1-301](#).

1187 Section 15. Section [31A-30-204](#) is amended to read:

1188 **[31A-30-204. Employer election -- Defined benefit -- Defined contribution](#)**
1189 **[arrangements -- Responsibilities.](#)**

1190 (1) (a) An employer participating in the defined contribution arrangement market on
1191 the Health Insurance Exchange shall make an initial election to offer its employees either a
1192 defined benefit plan or a defined contribution arrangement health benefit plan.

1193 (b) If an employer elects to offer a defined benefit plan:

1194 (i) the employer or the employer's producer shall enroll the employer in the Health
1195 Insurance Exchange;

1196 (ii) the employees shall submit the uniform application required for the Health
1197 Insurance Exchange; and

1198 (iii) the employer shall select the defined benefit plan in accordance with Section
1199 [31A-30-208](#).

1200 (c) When an employer makes an election under Subsections (1)(a) and (b):

1201 (i) the employer may not offer its employees a defined contribution arrangement health
1202 benefit plan; and

1203 (ii) the employees may not select a defined contribution arrangement health benefit
1204 plan in the Health Insurance Exchange.

1205 (d) If an employer elects to offer its employees a defined contribution arrangement

1206 health benefit plan, the employer shall comply with the provisions of Subsections (2) through
1207 (5).

1208 (2) (a) (i) An employer that chooses to participate in a defined contribution
1209 arrangement health benefit plan may not offer to an employee a health benefit plan that is not a
1210 defined contribution arrangement health benefit plan in the Health Insurance Exchange.

1211 (ii) Subsection (2)(a)(i) does not prohibit the offer of supplemental or limited benefit
1212 policies such as dental or vision coverage, or other types of federally qualified savings accounts
1213 for health care expenses.

1214 (b) (i) To the extent permitted by Sections [31A-1-301](#), [31A-30-112](#), and [31A-30-206](#),
1215 and the risk adjustment plan adopted under Section [31A-42-204](#), the employer reserves the
1216 right to determine:

1217 (A) the criteria for employee eligibility, enrollment, and participation in the employer's
1218 health benefit plan; and

1219 (B) the amount of the employer's contribution to that plan.

1220 (ii) The determinations made under Subsection (2)(b) may only be changed during
1221 periods of open enrollment.

1222 (3) An employer that chooses to establish a defined contribution arrangement health
1223 benefit plan to provide a health benefit plan for its employees shall:

1224 (a) establish a mechanism for its employees to use pre-tax dollars to purchase a health
1225 benefit plan from the defined contribution arrangement market on the Health Insurance
1226 Exchange created in Section [[63M-1-2504](#)] [63N-11-104](#), which may include:

1227 (i) a health reimbursement arrangement;

1228 (ii) a Section 125 Cafeteria plan; or

1229 (iii) another plan or arrangement similar to Subsection (3)(a)(i) or (ii) which is
1230 excluded or deducted from gross income under the Internal Revenue Code;

1231 (b) before the employee's health benefit plan selection period:

1232 (i) inform each employee of the health benefit plan the employer has selected as the
1233 default health benefit plan for the employer group;

1234 (ii) offer each employee a choice of any of the defined contribution arrangement health
1235 benefit plans available through the defined contribution arrangement market on the Health
1236 Insurance Exchange; and

1237 (iii) notify the employee that the employee will be enrolled in the default health benefit
1238 plan selected by the employer and payroll deductions initiated for premium payments, unless
1239 the employee, before the employee's selection period ends:

1240 (A) selects a different defined contribution arrangement health benefit plan available in
1241 the Health Insurance Exchange;

1242 (B) provides proof of coverage from another health benefit plan; or

1243 (C) specifically declines coverage in a health benefit plan.

1244 (4) An employer shall enroll an employee in the default defined contribution
1245 arrangement health benefit plan selected by the employer if the employee does not make one of
1246 the choices described in Subsection (3)(b)(iii) before the end of the employee selection period,
1247 which may not be less than 14 calendar days.

1248 (5) The employer's notice to the employee under Subsection (3)(b)(iii) shall inform the
1249 employee that the failure to act under Subsections (3)(b)(iii)(A) through (C) is considered an
1250 affirmative election under pre-tax payroll deductions for the employer to begin payroll
1251 deductions for health benefit plan premiums.

1252 Section 16. Section **31A-30-208** is amended to read:

1253 **31A-30-208. Enrollment for defined contribution arrangements.**

1254 (1) An insurer offering a health benefit plan in the defined contribution arrangement
1255 market:

1256 (a) shall allow an employer to enroll in a small employer defined contribution
1257 arrangement plan; and

1258 (b) shall otherwise comply with the requirements of this part, Chapter 42, Defined
1259 Contribution Risk Adjuster Act, and Title [~~63M~~] 63N, Chapter [~~†~~] 11, [~~Part 25;~~] Health System
1260 Reform Act.

1261 (2) (a) An insurer may enter or exit the defined contribution arrangement market on
1262 January 1 of each year.

1263 (b) An insurer may offer new or modify existing products in the defined contribution
1264 arrangement market:

1265 (i) on January 1 of each year;

1266 (ii) when required by changes in other law; and

1267 (iii) at other times as established by the risk adjuster board created in Section

1268 31A-42-201.

1269 (c) An insurer shall give the department, the Health Insurance Exchange, and the risk
1270 adjuster board 90 days' advance written notice of any event described in Subsection (2)(a) or
1271 (b).

1272 Section 17. Section 31A-30-302 is amended to read:

1273 **31A-30-302. Creation of state risk adjustment program.**

1274 (1) The commissioner shall convene a group of stakeholders and actuaries to assist the
1275 commissioner with the evaluation or the risk adjustment options described in Subsection (2). If
1276 the commissioner determines that a state-based risk adjustment program is in the best interest
1277 of the state, the commissioner shall establish an individual and small employer market risk
1278 adjustment program in accordance with 42 U.S.C. 18063 and this section.

1279 (2) The risk adjustment program adopted by the commissioner may include one of the
1280 following models:

1281 (a) continue the United States Department of Health and Human Services
1282 administration of the federal model for risk adjustment for the individual and small employer
1283 market in the state;

1284 (b) have the state administer the federal model for risk adjustment for the individual
1285 and small employer market in the state;

1286 (c) establish and operate a state-based risk adjustment program for the individual and
1287 small employer market in the state; or

1288 (d) another risk adjustment model developed by the commissioner under Subsection
1289 (1).

1290 (3) Before adopting one of the models described in Subsection (2), the commissioner:

1291 (a) may enter into contracts to carry out the services needed to evaluate and establish
1292 one of the risk adjustment options described in Subsection (2); and

1293 (b) shall, prior to October 30, 2014, comply with the reporting requirements of Section
1294 [~~63M-1-2505.5~~] 63N-11-106 regarding the commissioner's evaluation of the risk adjustment
1295 options described in Subsection (2).

1296 (4) The commissioner may:

1297 (a) adopt administrative rules in accordance with Title 63G, Chapter 3, Utah
1298 Administrative Rulemaking Act, that require an insurer that is subject to the state-based risk

1299 adjustment program to submit data to the all payers claims database created under Section
1300 [26-33a-106.1](#); and

1301 (b) establish fees in accordance with Title 63J, Chapter 1, Budgetary Procedures Act,
1302 to cover the ongoing administrative cost of running the state-based risk adjustment program.

1303 Section 18. Section **35A-1-104.5** is amended to read:

1304 **35A-1-104.5. Other department duties -- Strategic plan for health system reform**
1305 **-- Reporting suspected misuse of a Social Security number.**

1306 (1) The department shall work with the Department of Health, the Insurance
1307 Department, the Governor's Office of Economic Development, and the Legislature to develop
1308 the health system reform in accordance with Title ~~[63M]~~ [63N](#), Chapter ~~[+]~~ [11](#), ~~[Part 25,]~~ Health
1309 System Reform Act.

1310 (2) In the process of determining an individual's eligibility for a public benefit or
1311 service under this title or under federal law, if the department determines that a valid Social
1312 Security number is being used by an unauthorized individual, the department shall:

1313 (a) inform the individual who the department determines to be the likely actual owner
1314 of the Social Security number or, if the likely actual owner is a minor, the minor's parent or
1315 guardian, of the suspected misuse; and

1316 (b) subject to federal law, provide information of the suspected misuse to an
1317 appropriate law enforcement agency responsible for investigating identity fraud.

1318 (3) If the department learns or determines that providing information under Subsection
1319 (2)(b) is prohibited by federal law, the department shall notify the Legislative Management
1320 Committee.

1321 Section 19. Section **53A-1-410** is amended to read:

1322 **53A-1-410. Utah Futures.**

1323 (1) As used in this section:

1324 (a) "Education provider" means:

1325 (i) a Utah institution of higher education as defined in Section [53B-2-101](#); or

1326 (ii) a Utah provider of postsecondary education.

1327 (b) "Student user" means:

1328 (i) a Utah student in kindergarten through grade 12;

1329 (ii) a Utah post secondary education student;

1330 (iii) a parent or guardian of a Utah public education student; or

1331 (iv) a Utah potential post secondary education student.

1332 (c) "Utah Futures" means a career planning program developed and administered by
1333 the Department of Workforce Services, the State Board of Regents, and the State Board of
1334 Education.

1335 (d) "Utah Futures Steering Committee" means a committee of members designated by
1336 the governor to administer and manage Utah Futures in collaboration with the Department of
1337 Workforce Services, the State Board of Regents, and the State Board of Education.

1338 (2) The Utah Futures Steering Committee shall ensure, as funding allows and is
1339 feasible, that Utah Futures will:

1340 (a) allow a student user to:

1341 (i) access the student user's full academic record;

1342 (ii) electronically allow the student user to give access to the student user's academic
1343 record and related information to an education provider as allowed by law;

1344 (iii) access information about different career opportunities and understand the related
1345 educational requirements to enter that career;

1346 (iv) access information about education providers;

1347 (v) access up to date information about entrance requirements to education providers;

1348 (vi) apply for entrance to multiple schools without having to fully replicate the
1349 application process;

1350 (vii) apply for loans, scholarships, or grants from multiple education providers in one
1351 location without having to fully replicate the application process for multiple education
1352 providers; and

1353 (viii) research open jobs from different companies within the user's career interest and
1354 apply for those jobs without having to leave the website to do so;

1355 (b) allow all users to:

1356 (i) access information about different career opportunities and understand the related
1357 educational requirements to enter that career;

1358 (ii) access information about education providers;

1359 (iii) access up-to-date information about entrance requirements to education providers;

1360 (iv) apply for entrance to multiple schools without having to fully replicate the

- 1361 application process;
- 1362 (v) apply for loans, scholarships, or grants from multiple education providers in one
1363 location without having to fully replicate the application process for multiple education
1364 providers; and
- 1365 (vi) research open jobs from different companies within the user's career interest and
1366 apply for those jobs without having to leave the website to do so;
- 1367 (c) allow an education provider to:
- 1368 (i) research and find student users who are interested in various educational outcomes;
1369 (ii) promote the education provider's programs and schools to student users; and
1370 (iii) connect with student users within the Utah Futures website;
- 1371 (d) allow a Utah business to:
- 1372 (i) research and find student users who are pursuing educational outcomes that are
1373 consistent with jobs the Utah business is trying to fill now or in the future; and
1374 (ii) market jobs and communicate with student users through the Utah Futures website
1375 as allowed by law;
- 1376 (e) allow the Department of Workforce Services to analyze and report on student user
1377 interests, education paths, and behaviors within the education system so as to predictively
1378 determine appropriate career and educational outcomes and results; and
- 1379 (f) allow all users of the Utah Futures' system to communicate and interact through
1380 social networking tools within the Utah Futures website as allowed by law.
- 1381 (3) On or before October 1, 2014, the State Board of Education, after consulting with
1382 the Board of Business and Economic Development created in Section [~~63M-1-301~~] [63N-1-401](#),
1383 may select a technology provider, through a request for proposals process, to provide
1384 technology and support for Utah Futures.
- 1385 (4) In evaluating proposals under Subsection (3) in consultation with the Board of
1386 Business and Economic Development, the State Board of Education shall ensure that the
1387 technology provided by a proposer:
- 1388 (a) allows Utah Futures to license the selected service oriented architecture
1389 technologies;
- 1390 (b) allows Utah Futures to protect all user data within the system by leveraging role
1391 architecture;

1392 (c) allows Utah Futures to update the user interface, APIs, and web services software
1393 layers as needed;

1394 (d) provides the ability for a student user to have a secure profile and login to access
1395 and to store personal information related to the services listed in Subsection (2) via the
1396 Internet;

1397 (e) protects all user data within Utah Futures;

1398 (f) allows the State Board of Education to license the technology of the selected
1399 technology provider; and

1400 (g) provides technology able to support application programming interfaces to integrate
1401 technology of other third party providers, which may include cloud-based technology.

1402 (5) (a) On or before August 1, 2014, the evaluation panel described in Subsection
1403 (5)(b), using the criteria described in Subsection (5)(c), shall evaluate Utah Futures and
1404 determine whether any or all components of Utah Futures, as described in this section, should
1405 be outsourced to a private provider or built in-house by the participating state agencies.

1406 (b) The evaluation panel described in Subsection (5)(a) shall consist of the following
1407 members, appointed by the governor after consulting with the State Board of Education:

1408 (i) five members who represent business, including:

1409 (A) one member who has extensive knowledge and experience in information
1410 technology; and

1411 (B) one member who has extensive knowledge and experience in human resources;

1412 (ii) one member who is a user of the information provided by Utah Futures;

1413 (iii) one member who is a parent of a student who uses Utah Futures;

1414 (iv) one member who:

1415 (A) is an educator as defined in Section [53A-6-103](#); and

1416 (B) teaches students who use Utah Futures; and

1417 (v) one member who is a high school counselor licensed under Title 53A, Chapter 6,
1418 Educator Licensing and Professional Practices Act.

1419 (c) The evaluation panel described in Subsections (5)(a) and (b) shall consider at least
1420 the following criteria to make the determination described in Subsection (5)(a):

1421 (i) the complete functional capabilities of a private technology provider versus an
1422 in-house version;

1423 (ii) the cost of purchasing privately developed technology versus continuing to develop
1424 or build an in-house version;

1425 (iii) the data and security capabilities of a private technology provider versus an
1426 in-house version;

1427 (iv) the time frames to implementation; and

1428 (v) the best practices and examples of other states who have implemented a tool similar
1429 to Utah Futures.

1430 (d) On or before September 30, 2014, the evaluation panel shall report the
1431 determination to:

1432 (i) the State Board of Education;

1433 (ii) the Executive Appropriations Committee; and

1434 (iii) the Education Interim Committee.

1435 Section 20. Section **59-7-610** is amended to read:

1436 **59-7-610. Recycling market development zones tax credit.**

1437 (1) For taxable years beginning on or after January 1, 1996, a business operating in a
1438 recycling market development zone as defined in Section [~~63M-1-1102~~] 63N-2-402 may claim
1439 a tax credit as provided in this section.

1440 (a) (i) There shall be allowed a nonrefundable tax credit of 5% of the purchase price
1441 paid for machinery and equipment used directly in:

1442 (A) commercial composting; or

1443 (B) manufacturing facilities or plant units that:

1444 (I) manufacture, process, compound, or produce recycled items of tangible personal
1445 property for sale; or

1446 (II) reduce or reuse postconsumer waste material.

1447 (ii) The Governor's Office of Economic Development shall certify that the machinery
1448 and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling
1449 process:

1450 (A) on a form provided by the commission; and

1451 (B) before a taxpayer is allowed a tax credit under this section.

1452 (iii) The Governor's Office of Economic Development shall provide a taxpayer seeking
1453 to claim a tax credit under this section with a copy of the form described in Subsection

1454 (1)(a)(ii).

1455 (iv) The taxpayer described in Subsection (1)(a)(iii) shall retain a copy of the form
1456 received under Subsection (1)(a)(iii).

1457 (b) There shall be allowed a nonrefundable tax credit equal to 20% of net expenditures
1458 up to \$10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made
1459 by the taxpayer for establishing and operating recycling or composting technology in Utah,
1460 with an annual maximum tax credit of \$2,000.

1461 (2) The total nonrefundable tax credit allowed under this section may not exceed 40%
1462 of the Utah income tax liability of the taxpayer prior to any tax credits in the taxable year of
1463 purchase prior to claiming the tax credit authorized by this section.

1464 (3) (a) Any tax credit not used for the taxable year in which the purchase price on
1465 composting or recycling machinery and equipment was paid may be carried over for credit
1466 against the business' income taxes in the three succeeding taxable years until the total tax credit
1467 amount is used.

1468 (b) Tax credits not claimed by a business on the business' state income tax return
1469 within three years are forfeited.

1470 (4) The commission shall make rules governing what information shall be filed with
1471 the commission to verify the entitlement to and amount of a tax credit.

1472 (5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after
1473 January 1, 2001, a taxpayer may not claim or carry forward a tax credit described in Subsection
1474 (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under
1475 Section [~~63M-1-413~~] [63N-2-213](#).

1476 (b) For a taxable year other than a taxable year during which the taxpayer may not
1477 claim or carry forward a tax credit in accordance with Subsection (5)(a), a taxpayer may claim
1478 or carry forward a tax credit described in Subsection (1)(a):

1479 (i) if the taxpayer may claim or carry forward the tax credit in accordance with
1480 Subsections (1) and (2); and

1481 (ii) subject to Subsections (3) and (4).

1482 (6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January
1483 1, 2001, a taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable year
1484 during which the taxpayer claims or carries forward a tax credit under Section [~~63M-1-413~~]

1485 [63N-2-213](#).

1486 (7) A taxpayer may not claim or carry forward a tax credit available under this section
1487 for a taxable year during which the taxpayer has claimed the targeted business income tax
1488 credit available under Section [~~63M-1-504~~] [63N-2-305](#).

1489 Section 21. Section **59-7-614.2** is amended to read:

1490 **59-7-614.2. Refundable economic development tax credit.**

1491 (1) As used in this section:

1492 (a) "Business entity" means a taxpayer that meets the definition of "business entity" as
1493 defined in Section [~~63M-1-2403~~] [63N-2-103](#).

1494 (b) "Community development and renewal agency" is as defined in Section [17C-1-102](#).

1495 (c) "Local government entity" is as defined in Section [~~63M-1-2403~~] [63N-2-103](#).

1496 (d) "Office" means the Governor's Office of Economic Development.

1497 (2) Subject to the other provisions of this section, a business entity, local government
1498 entity, or community development and renewal agency may claim a refundable tax credit for
1499 economic development.

1500 (3) The tax credit under this section is the amount listed as the tax credit amount on the
1501 tax credit certificate that the office issues to the business entity, local government entity, or
1502 community development and renewal agency for the taxable year.

1503 (4) A community development and renewal agency may claim a tax credit under this
1504 section only if a local government entity assigns the tax credit to the community development
1505 and renewal agency in accordance with Section [~~63M-1-2404~~] [63N-2-104](#).

1506 (5) (a) In accordance with any rules prescribed by the commission under Subsection
1507 (5)(b), the commission shall make a refund to the following that claim a tax credit under this
1508 section:

1509 (i) a local government entity;

1510 (ii) a community development and renewal agency; or

1511 (iii) a business entity if the amount of the tax credit exceeds the business entity's tax
1512 liability for a taxable year.

1513 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1514 commission may make rules providing procedures for making a refund to a business entity,
1515 local government entity, or community development and renewal agency as required by

1516 Subsection (5)(a).

1517 (6) (a) On or before October 1, 2013, and every five years after October 1, 2013, the
1518 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
1519 make recommendations to the Legislative Management Committee concerning whether the tax
1520 credit should be continued, modified, or repealed.

1521 (b) For purposes of the study required by this Subsection (6), the office shall provide
1522 the following information to the Revenue and Taxation Interim Committee:

1523 (i) the amount of tax credit that the office grants to each business entity, local
1524 government entity, or community development and renewal agency for each calendar year;

1525 (ii) the criteria that the office uses in granting a tax credit;

1526 (iii) (A) for a business entity, the new state revenues generated by the business entity
1527 for the calendar year; or

1528 (B) for a local government entity, regardless of whether the local government entity
1529 assigns the tax credit in accordance with Section [~~63M-1-2404~~] 63N-2-104, the new state
1530 revenues generated as a result of a new commercial project within the local government entity
1531 for each calendar year;

1532 (iv) the information contained in the office's latest report to the Legislature under
1533 Section [~~63M-1-2406~~] 63N-2-106; and

1534 (v) any other information that the Revenue and Taxation Interim Committee requests.

1535 (c) The Revenue and Taxation Interim Committee shall ensure that its
1536 recommendations under Subsection (6)(a) include an evaluation of:

1537 (i) the cost of the tax credit to the state;

1538 (ii) the purpose and effectiveness of the tax credit; and

1539 (iii) the extent to which the state benefits from the tax credit.

1540 Section 22. Section **59-7-614.5** is amended to read:

1541 **59-7-614.5. Refundable motion picture tax credit.**

1542 (1) As used in this section:

1543 (a) "Motion picture company" means a taxpayer that meets the definition of a motion
1544 picture company under Section [~~63M-1-1802~~] 63N-8-102.

1545 (b) "Office" means the Governor's Office of Economic Development.

1546 (c) "State-approved production" has the same meaning as defined in Section

1547 [~~63M-1-1802~~] 63N-8-102.

1548 (2) For taxable years beginning on or after January 1, 2009, a motion picture company
1549 may claim a refundable tax credit for a state-approved production.

1550 (3) The tax credit under this section is the amount listed as the tax credit amount on the
1551 tax credit certificate that the office issues to a motion picture company under Section
1552 [~~63M-1-1803~~] 63N-8-103 for the taxable year.

1553 (4) (a) In accordance with any rules prescribed by the commission under Subsection
1554 (4)(b), the commission shall make a refund to a motion picture company that claims a tax
1555 credit under this section if the amount of the tax credit exceeds the motion picture company's
1556 tax liability for a taxable year.

1557 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1558 commission may make rules providing procedures for making a refund to a motion picture
1559 company as required by Subsection (4)(a).

1560 (5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the
1561 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
1562 make recommendations to the Legislative Management Committee concerning whether the tax
1563 credit should be continued, modified, or repealed.

1564 (b) For purposes of the study required by this Subsection (5), the office shall provide
1565 the following information to the Revenue and Taxation Interim Committee:

1566 (i) the amount of tax credit that the office grants to each motion picture company for
1567 each calendar year;

1568 (ii) the criteria that the office uses in granting the tax credit;

1569 (iii) the dollars left in the state, as defined in Section [~~63M-1-1802~~] 63N-8-102, by
1570 each motion picture company for each calendar year;

1571 (iv) the information contained in the office's latest report to the Legislature under
1572 Section [~~63M-1-1805~~] 63N-8-105; and

1573 (v) any other information requested by the Revenue and Taxation Interim Committee.

1574 (c) The Revenue and Taxation Interim Committee shall ensure that its
1575 recommendations under Subsection (5)(a) include an evaluation of:

1576 (i) the cost of the tax credit to the state;

1577 (ii) the effectiveness of the tax credit; and

1578 (iii) the extent to which the state benefits from the tax credit.

1579 Section 23. Section **59-7-614.6** is amended to read:

1580 **59-7-614.6. Refundable tax credit for certain business entities generating state tax**
1581 **revenue increases.**

1582 (1) As used in this section:

1583 (a) "Eligible business entity" is as defined in Section [~~63M-1-2902~~] 63N-2-802.

1584 (b) "Eligible new state tax revenues" is as defined in Section [~~63M-1-2902~~]
1585 63N-2-802.

1586 (c) "Office" means the Governor's Office of Economic Development.

1587 (d) "Pass-through entity" is as defined in Section 59-10-1402.

1588 (e) "Pass-through entity taxpayer" is as defined in Section 59-10-1402.

1589 (f) "Qualifying agreement" means an agreement under [~~Subsection 63M-1-2908~~]

1590 Section 63N-2-808 that includes a provision for an eligible business entity to make new capital
1591 expenditures of at least \$1,000,000,000 in the state.

1592 (2) Subject to the other provisions of this section, an eligible business entity may:

1593 (a) claim a refundable tax credit as provided in Subsection (3); or

1594 (b) if the eligible business entity is a pass-through entity, pass through to one or more
1595 pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part
1596 14, Pass-through Entities and Pass-through Entity Taxpayers Act, a refundable tax credit that
1597 the eligible business entity could otherwise claim under this section.

1598 (3) (a) Except as provided in Subsection (3)(b), the amount of the tax credit an eligible
1599 business entity may claim or pass through is the amount listed on the tax credit certificate that
1600 the office issues to the eligible business entity for a taxable year in accordance with Section
1601 [~~63M-1-2908~~] 63N-2-808.

1602 (b) Subject to Subsection (3)(c), a tax credit under this section may not exceed the
1603 amount of eligible new state tax revenues generated by an eligible business entity for the
1604 taxable year for which the eligible business entity claims a tax credit under this section.

1605 (c) A tax credit under this section for an eligible business entity that enters into a
1606 qualifying agreement may not exceed:

1607 (i) for the taxable year in which the eligible business entity first generates eligible new
1608 state tax revenues and the two following years, the amount of eligible new state tax revenues

1609 generated by the eligible business entity; and

1610 (ii) for the seven taxable years following the last of the three taxable years described in
1611 Subsection (3)(c)(i), 75% of the amount of eligible new state tax revenues generated by the
1612 eligible business entity.

1613 (4) An eligible business entity may only claim or pass through a tax credit under this
1614 section for a taxable year for which the eligible business entity holds a tax credit certificate
1615 issued in accordance with Section [~~63M-1-2908~~] 63N-2-808.

1616 (5) An eligible business entity may not:

1617 (a) carry forward or carry back a tax credit under this section; or

1618 (b) claim or pass through a tax credit in an amount greater than the amount listed on a
1619 tax credit certificate issued in accordance with Section [~~63M-1-2908~~] 63N-2-808 for a taxable
1620 year.

1621 Section 24. Section **59-7-614.8** is amended to read:

1622 **59-7-614.8. Nonrefundable alternative energy manufacturing tax credit.**

1623 (1) As used in this section:

1624 (a) "Alternative energy entity" is as defined in Section [~~63M-1-3102~~] 63N-2-702.

1625 (b) "Alternative energy manufacturing project" is as defined in Section [~~63M-1-3102~~]
1626 63N-2-702.

1627 (c) "Office" means the Governor's Office of Economic Development.

1628 (2) Subject to the other provisions of this section, an alternative energy entity may
1629 claim a nonrefundable tax credit for alternative energy manufacturing as provided in this
1630 section.

1631 (3) The tax credit under this section is the amount listed as the tax credit amount on a
1632 tax credit certificate that the office issues under Title [~~63M~~] 63N, Chapter [~~1~~] 2, Part [~~31~~] 7,
1633 Alternative Energy Manufacturing Tax Credit Act, to the alternative energy entity for the
1634 taxable year.

1635 (4) An alternative energy entity may carry forward a tax credit under this section for a
1636 period that does not exceed the next seven taxable years if:

1637 (a) the alternative energy entity is allowed to claim a tax credit under this section for a
1638 taxable year; and

1639 (b) the amount of the tax credit exceeds the alternative energy entity's tax liability

1640 under this chapter for that taxable year.

1641 (5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the
1642 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
1643 make recommendations to the Legislative Management Committee concerning whether the tax
1644 credit should be continued, modified, or repealed.

1645 (b) For purposes of the study required by this Subsection (5), the office shall provide
1646 the following information to the Revenue and Taxation Interim Committee:

1647 (i) the amount of tax credit that the office grants to each alternative energy entity for
1648 each taxable year;

1649 (ii) the new state revenues generated by each alternative energy manufacturing project;

1650 (iii) the information contained in the office's latest report to the Legislature under
1651 Section [~~63M-1-3105~~] 63N-2-705; and

1652 (iv) any other information that the Revenue and Taxation Interim Committee requests.

1653 (c) The Revenue and Taxation Interim Committee shall ensure that its
1654 recommendations under Subsection (5)(a) include an evaluation of:

1655 (i) the cost of the tax credit to the state;

1656 (ii) the purpose and effectiveness of the tax credit; and

1657 (iii) the extent to which the state benefits from the tax credit.

1658 Section 25. Section **59-7-616** is amended to read:

1659 **59-7-616. Refundable tax credit for certain business entities.**

1660 (1) As used in this section:

1661 (a) "Office" means the Governor's Office of Economic Development.

1662 (b) "Pass-through entity" has the same meaning as defined in Section 59-10-1402.

1663 (c) "Pass-through entity taxpayer" has the same meaning as defined in Section
1664 59-10-1402.

1665 (d) "Tax credit certificate" has the same meaning as defined in Section [~~63M-1-3402~~]
1666 63N-2-502.

1667 (e) "Tax credit recipient" has the same meaning as defined in Section [~~63M-1-3402~~]
1668 63N-2-502.

1669 (2) (a) Subject to the other provisions of this section, a tax credit recipient that is a
1670 corporation may claim a refundable tax credit as provided in Subsection (3).

1671 (b) If the tax credit recipient is a pass-through entity, the pass-through entity shall pass
1672 through to one or more pass-through entity taxpayers of the pass-through entity, in accordance
1673 with Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act, a
1674 refundable tax credit that the tax credit recipient could otherwise claim under this section.

1675 (3) The amount of a tax credit is the amount listed as the tax credit amount on the tax
1676 credit certificate that the office issues to the tax credit recipient for the taxable year.

1677 (4) A tax credit recipient:

1678 (a) may claim or pass through a tax credit in a taxable year other than the taxable year
1679 during which the tax credit recipient has been issued a tax credit certificate; and

1680 (b) may not claim a tax credit under both this section and Section 59-10-1110.

1681 (5) (a) In accordance with any rules prescribed by the commission under Subsection
1682 (5)(b), the commission shall:

1683 (i) make a refund to a tax credit recipient that claims a tax credit under this section if
1684 the amount of the tax credit exceeds the tax credit recipient's tax liability under this chapter;
1685 and

1686 (ii) transfer at least annually from the General Fund into the Education Fund an amount
1687 equal to the amount of tax credit claimed under this section.

1688 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1689 commission may make rules providing procedures for making:

1690 (i) a refund to a tax credit recipient or pass-through entity taxpayer as required by
1691 Subsection (5)(a)(i); or

1692 (ii) transfers from the General Fund into the Education Fund as required by Subsection
1693 (5)(a)(ii).

1694 Section 26. Section 59-10-210 is amended to read:

1695 **59-10-210. Fiduciary adjustments.**

1696 (1) A share of the fiduciary adjustments described in Subsection (2) shall be added to
1697 or subtracted from unadjusted income:

1698 (a) of:

1699 (i) a resident or nonresident estate or trust; or

1700 (ii) a resident or nonresident beneficiary of a resident or nonresident estate or trust; and

1701 (b) as provided in this section.

1702 (2) For purposes of Subsection (1), the fiduciary adjustments are the following
1703 amounts:

- 1704 (a) the additions to and subtractions from unadjusted income of a resident or
1705 nonresident estate or trust required by Section [59-10-202](#); and
- 1706 (b) a tax credit claimed by a resident or nonresident estate or trust as allowed by:
 - 1707 (i) Section [59-6-102](#);
 - 1708 (ii) Part 10, Nonrefundable Tax Credit Act;
 - 1709 (iii) Part 11, Refundable Tax Credit Act;
 - 1710 (iv) Section [59-13-202](#);
 - 1711 (v) Section [~~63M-1-413~~] [63N-2-213](#); or
 - 1712 (vi) Section [~~63M-1-504~~] [63N-2-305](#).

1713 (3) (a) The respective shares of an estate or trust and its beneficiaries, including for the
1714 purpose of this allocation a nonresident beneficiary, in the state fiduciary adjustments, shall be
1715 allocated in proportion to their respective shares of federal distributable net income of the
1716 estate or trust.

1717 (b) If the estate or trust described in Subsection (3)(a) has no federal distributable net
1718 income for the taxable year, the share of each beneficiary in the fiduciary adjustments shall be
1719 allocated in proportion to that beneficiary's share of the estate or trust income for the taxable
1720 year that is, under state law or the governing instrument, required to be distributed currently
1721 plus any other amounts of that income distributed in that taxable year.

1722 (c) After making the allocations required by Subsections (3)(a) and (b), any balance of
1723 the fiduciary adjustments shall be allocated to the estate or trust.

1724 (4) (a) The commission shall allow a fiduciary to use a method for determining the
1725 allocation of the fiduciary adjustments described in Subsection (2) other than the method
1726 described in Subsection (3) if using the method described in Subsection (3) results in an
1727 inequity:

- 1728 (i) in allocating the fiduciary adjustments described in Subsection (2); and
- 1729 (ii) if the inequity is substantial:
 - 1730 (A) in amount; and
 - 1731 (B) in relation to the total amount of the fiduciary adjustments described in Subsection
 - 1732 (2).

1733 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1734 commission may make rules authorizing a fiduciary to use a method for determining the
1735 allocation of the fiduciary adjustments described in Subsection (2) other than the method
1736 described in Subsection (3) if using the method described in Subsection (3) results in an
1737 inequity:

- 1738 (i) in allocating the fiduciary adjustments described in Subsection (2); and
1739 (ii) if the inequity is substantial:
1740 (A) in amount; and
1741 (B) in relation to the total amount of the fiduciary adjustments described in Subsection
1742 (2).

1743 Section 27. Section **59-10-1007** is amended to read:

1744 **59-10-1007. Recycling market development zones tax credit.**

1745 (1) For taxable years beginning on or after January 1, 1996, a claimant, estate, or trust
1746 in a recycling market development zone as defined in Section [[63M-1-1102](#)] [63N-2-402](#) may
1747 claim a nonrefundable tax credit as provided in this section.

1748 (a) (i) There shall be allowed a tax credit of 5% of the purchase price paid for
1749 machinery and equipment used directly in:

- 1750 (A) commercial composting; or
1751 (B) manufacturing facilities or plant units that:
1752 (I) manufacture, process, compound, or produce recycled items of tangible personal
1753 property for sale; or
1754 (II) reduce or reuse postconsumer waste material.

1755 (ii) The Governor's Office of Economic Development shall certify that the machinery
1756 and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling
1757 process:

- 1758 (A) on a form provided by the commission; and
1759 (B) before a claimant, estate, or trust is allowed a tax credit under this section.
1760 (iii) The Governor's Office of Economic Development shall provide a claimant, estate,
1761 or trust seeking to claim a tax credit under this section with a copy of the form described in
1762 Subsection (1)(a)(ii).

1763 (iv) The claimant, estate, or trust described in Subsection (1)(a)(iii) shall retain a copy

1764 of the form received under Subsection (1)(a)(iii).

1765 (b) There shall be allowed a tax credit equal to 20% of net expenditures up to \$10,000
1766 to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the
1767 claimant, estate, or trust for establishing and operating recycling or composting technology in
1768 Utah, with an annual maximum tax credit of \$2,000.

1769 (2) The total tax credit allowed under this section may not exceed 40% of the Utah
1770 income tax liability of the claimant, estate, or trust prior to any tax credits in the taxable year of
1771 purchase prior to claiming the tax credit authorized by this section.

1772 (3) (a) Any tax credit not used for the taxable year in which the purchase price on
1773 composting or recycling machinery and equipment was paid may be carried forward against the
1774 claimant's, estate's, or trusts's tax liability under this chapter in the three succeeding taxable
1775 years until the total tax credit amount is used.

1776 (b) Tax credits not claimed by a claimant, estate, or trust on the claimant's, estate's, or
1777 trust's tax return under this chapter within three years are forfeited.

1778 (4) The commission shall make rules governing what information shall be filed with
1779 the commission to verify the entitlement to and amount of a tax credit.

1780 (5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after
1781 January 1, 2001, a claimant, estate, or trust may not claim or carry forward a tax credit
1782 described in Subsection (1)(a) in a taxable year during which the claimant, estate, or trust
1783 claims or carries forward a tax credit under Section [~~63M-1-413~~] [63N-2-213](#).

1784 (b) For a taxable year other than a taxable year during which the claimant, estate, or
1785 trust may not claim or carry forward a tax credit in accordance with Subsection (5)(a), a
1786 claimant, estate, or trust may claim or carry forward a tax credit described in Subsection (1)(a):

1787 (i) if the claimant, estate, or trust may claim or carry forward the tax credit in
1788 accordance with Subsections (1) and (2); and

1789 (ii) subject to Subsections (3) and (4).

1790 (6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January
1791 1, 2001, a claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b) in
1792 a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit
1793 under Section [~~63M-1-413~~] [63N-2-213](#).

1794 (7) A claimant, estate, or trust may not claim or carry forward a tax credit available

1795 under this section for a taxable year during which the claimant, estate, or trust has claimed the
1796 targeted business income tax credit available under Section [~~63M-1-504~~] [63N-2-305](#).

1797 Section 28. Section **59-10-1025** is amended to read:

1798 **59-10-1025. Nonrefundable tax credit for investment in certain life science**
1799 **establishments.**

1800 (1) As used in this section:

1801 (a) "Commercial domicile" means the principal place from which the trade or business
1802 of a Utah small business corporation is directed or managed.

1803 (b) "Eligible claimant, estate, or trust" is as defined in Section [~~63M-1-2902~~]
1804 [63N-2-802](#).

1805 (c) "Life science establishment" means an establishment described in one of the
1806 following NAICS codes of the 2007 North American Industry Classification System of the
1807 federal Executive Office of the President, Office of Management and Budget:

1808 (i) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

1809 (ii) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

1810 Manufacturing; or

1811 (iii) NAICS Code 334517, Irradiation Apparatus Manufacturing.

1812 (d) "Office" means the Governor's Office of Economic Development.

1813 (e) "Pass-through entity" is as defined in Section [59-10-1402](#).

1814 (f) "Pass-through entity taxpayer" is as defined in Section [59-10-1402](#).

1815 (g) "Qualifying ownership interest" means an ownership interest that is:

1816 (i) (A) common stock;

1817 (B) preferred stock; or

1818 (C) an ownership interest in a pass-through entity;

1819 (ii) originally issued to:

1820 (A) an eligible claimant, estate, or trust; or

1821 (B) a pass-through entity if the eligible claimant, estate, or trust that claims a tax credit

1822 under this section was a pass-through entity taxpayer of the pass-through entity on the day on

1823 which the qualifying ownership interest was issued and remains a pass-through entity taxpayer

1824 of the pass-through entity until the last day of the taxable year for which the eligible claimant,

1825 estate, or trust claims a tax credit under this section; and

- 1826 (iii) issued:
- 1827 (A) by a Utah small business corporation;
- 1828 (B) on or after January 1, 2011; and
- 1829 (C) for money or other property, except for stock or securities.
- 1830 (h) (i) Except as provided in Subsection (1)(h)(ii), "Utah small business corporation" is
- 1831 as defined in Section [59-10-1022](#).
- 1832 (ii) For purposes of this section, a corporation under Section 1244(c)(3)(A), Internal
- 1833 Revenue Code, is considered to include a pass-through entity.
- 1834 (2) Subject to the other provisions of this section, for a taxable year beginning on or
- 1835 after January 1, 2011, an eligible claimant, estate, or trust that holds a tax credit certificate
- 1836 issued to the eligible claimant, estate, or trust in accordance with Section [[63M-1-2908](#)]
- 1837 [63N-2-808](#) for that taxable year may claim a nonrefundable tax credit in an amount up to 35%
- 1838 of the purchase price of a qualifying ownership interest in a Utah small business corporation by
- 1839 the claimant, estate, or trust if:
- 1840 (a) the qualifying ownership interest is issued by a Utah small business corporation that
- 1841 is a life science establishment;
- 1842 (b) the qualifying ownership interest in the Utah small business corporation is
- 1843 purchased for at least \$25,000;
- 1844 (c) the eligible claimant, estate, or trust owned less than 30% of the qualifying
- 1845 ownership interest of the Utah small business corporation at the time of the purchase of the
- 1846 qualifying ownership interest; and
- 1847 (d) on each day of the taxable year of the purchase of the qualifying ownership interest,
- 1848 the Utah small business corporation described in Subsection (2)(a) has at least 50% of its
- 1849 employees in the state.
- 1850 (3) Subject to Subsection (4), the tax credit under Subsection (2):
- 1851 (a) may only be claimed by the eligible claimant, estate, or trust:
- 1852 (i) for a taxable year for which the eligible claimant, estate, or trust holds a tax credit
- 1853 certificate issued in accordance with Section [[63M-1-2908](#)] [63N-2-808](#); and
- 1854 (ii) subject to obtaining a tax credit certificate for each taxable year as required by
- 1855 Subsection (3)(a)(i), for a period of three taxable years as follows:
- 1856 (A) the tax credit in the taxable year of the purchase of the qualifying ownership

1857 interest may not exceed 10% of the purchase price of the qualifying ownership interest;

1858 (B) the tax credit in the taxable year after the taxable year described in Subsection
1859 (3)(a)(ii)(A) may not exceed 10% of the purchase price of the qualifying ownership interest;
1860 and

1861 (C) the tax credit in the taxable year two years after the taxable year described in
1862 Subsection (3)(a)(ii)(A) may not exceed 15% of the purchase price of the qualifying ownership
1863 interest; and

1864 (b) may not exceed the lesser of:

1865 (i) the amount listed on the tax credit certificate issued in accordance with Section
1866 ~~[63M-1-2908]~~ 63N-2-808; or

1867 (ii) \$350,000 in a taxable year.

1868 (4) An eligible claimant, estate, or trust may not claim a tax credit under this section
1869 for a taxable year if the eligible claimant, estate, or trust:

1870 (a) has sold any of the qualifying ownership interest during the taxable year; or

1871 (b) does not hold a tax credit certificate for that taxable year that is issued to the
1872 eligible claimant, estate, or trust by the office in accordance with Section ~~[63M-1-2908]~~
1873 63N-2-808.

1874 (5) If a Utah small business corporation in which an eligible claimant, estate, or trust
1875 purchases a qualifying ownership interest fails, dissolves, or otherwise goes out of business, the
1876 eligible claimant, estate, or trust may not claim both the tax credit provided in this section and
1877 a capital loss on the qualifying ownership interest.

1878 (6) If an eligible claimant is a pass-through entity taxpayer that files a return under
1879 Chapter 7, Corporate Franchise and Income Taxes, the eligible claimant may claim the tax
1880 credit under this section on the return filed under Chapter 7, Corporate Franchise and Income
1881 Taxes.

1882 (7) A claimant, estate, or trust may not carry forward or carry back a tax credit under
1883 this section.

1884 Section 29. Section **59-10-1030** is amended to read:

1885 **59-10-1030. Nonrefundable alternative energy manufacturing tax credit.**

1886 (1) As used in this section:

1887 (a) "Alternative energy entity" is as defined in Section ~~[63M-1-3102]~~ 63N-2-702.

1888 (b) "Alternative energy manufacturing project" is as defined in Section [~~63M-1-3102~~]
1889 63N-2-702.

1890 (c) "Office" means the Governor's Office of Economic Development.

1891 (2) Subject to the other provisions of this section, an alternative energy entity may
1892 claim a nonrefundable tax credit for alternative energy manufacturing as provided in this
1893 section.

1894 (3) The tax credit under this section is the amount listed as the tax credit amount on a
1895 tax credit certificate that the office issues under Title [~~63M~~] 63N, Chapter [~~1~~] 2, Part [~~31~~] 7,
1896 Alternative Energy Manufacturing Tax Credit Act, to the alternative energy entity for the
1897 taxable year.

1898 (4) An alternative energy entity may carry forward a tax credit under this section for a
1899 period that does not exceed the next seven taxable years if:

1900 (a) the alternative energy entity is allowed to claim a tax credit under this section for a
1901 taxable year; and

1902 (b) the amount of the tax credit exceeds the alternative energy entity's tax liability
1903 under this chapter for that taxable year.

1904 (5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the
1905 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
1906 make recommendations to the Legislative Management Committee concerning whether the tax
1907 credit should be continued, modified, or repealed.

1908 (b) For purposes of the study required by this Subsection (5), the office shall provide
1909 the following information to the Revenue and Taxation Interim Committee:

1910 (i) the amount of tax credit that the office grants to each alternative energy entity for
1911 each taxable year;

1912 (ii) the new state revenues generated by each alternative energy manufacturing project;

1913 (iii) the information contained in the office's latest report to the Legislature under
1914 Section [~~63M-1-3105~~] 63N-2-705; and

1915 (iv) any other information that the Revenue and Taxation Interim Committee requests.

1916 (c) The Revenue and Taxation Interim Committee shall ensure that its
1917 recommendations under Subsection (5)(a) include an evaluation of:

1918 (i) the cost of the tax credit to the state;

- 1919 (ii) the purpose and effectiveness of the tax credit; and
1920 (iii) the extent to which the state benefits from the tax credit.
- 1921 Section 30. Section **59-10-1107** is amended to read:
- 1922 **59-10-1107. Refundable economic development tax credit.**
- 1923 (1) As used in this section:
- 1924 (a) "Business entity" means a claimant, estate, or trust that meets the definition of
1925 "business entity" as defined in Section [~~63M-1-2403~~] [63N-2-103](#).
- 1926 (b) "Office" means the Governor's Office of Economic Development.
- 1927 (2) Subject to the other provisions of this section, a business entity may claim a
1928 refundable tax credit for economic development.
- 1929 (3) The tax credit under this section is the amount listed as the tax credit amount on the
1930 tax credit certificate that the office issues to the business entity for the taxable year.
- 1931 (4) (a) In accordance with any rules prescribed by the commission under Subsection
1932 (4)(b), the commission shall make a refund to a business entity that claims a tax credit under
1933 this section if the amount of the tax credit exceeds the business entity's tax liability for a
1934 taxable year.
- 1935 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1936 commission may make rules providing procedures for making a refund to a business entity as
1937 required by Subsection (4)(a).
- 1938 (5) (a) On or before October 1, 2013, and every five years after October 1, 2013, the
1939 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
1940 make recommendations to the Legislative Management Committee concerning whether the tax
1941 credit should be continued, modified, or repealed.
- 1942 (b) For purposes of the study required by this Subsection (5), the office shall provide
1943 the following information to the Revenue and Taxation Interim Committee:
- 1944 (i) the amount of tax credit the office grants to each taxpayer for each calendar year;
1945 (ii) the criteria the office uses in granting a tax credit;
1946 (iii) the new state revenues generated by each taxpayer for each calendar year;
1947 (iv) the information contained in the office's latest report to the Legislature under
1948 Section [~~63M-1-2406~~] [63N-2-106](#); and
1949 (v) any other information that the Revenue and Taxation Interim Committee requests.

1950 (c) The Revenue and Taxation Interim Committee shall ensure that its
1951 recommendations under Subsection (5)(a) include an evaluation of:

- 1952 (i) the cost of the tax credit to the state;
1953 (ii) the purpose and effectiveness of the tax credit; and
1954 (iii) the extent to which the state benefits from the tax credit.

1955 Section 31. Section **59-10-1108** is amended to read:

1956 **59-10-1108. Refundable motion picture tax credit.**

1957 (1) As used in this section:

1958 (a) "Motion picture company" means a claimant, estate, or trust that meets the
1959 definition of a motion picture company under Section [~~63M-1-1802~~] 63N-8-102.

1960 (b) "Office" means the Governor's Office of Economic Development.

1961 (c) "State-approved production" has the same meaning as defined in Section
1962 [~~63M-1-1802~~] 63N-8-102.

1963 (2) For taxable years beginning on or after January 1, 2009, a motion picture company
1964 may claim a refundable tax credit for a state-approved production.

1965 (3) The tax credit under this section is the amount listed as the tax credit amount on the
1966 tax credit certificate that the office issues to a motion picture company under Section
1967 [~~63M-1-1803~~] 63N-8-103 for the taxable year.

1968 (4) (a) In accordance with any rules prescribed by the commission under Subsection
1969 (4)(b), the commission shall make a refund to a motion picture company that claims a tax
1970 credit under this section if the amount of the tax credit exceeds the motion picture company's
1971 tax liability for the taxable year.

1972 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1973 commission may make rules providing procedures for making a refund to a motion picture
1974 company as required by Subsection (4)(a).

1975 (5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the
1976 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
1977 make recommendations to the Legislative Management Committee concerning whether the tax
1978 credit should be continued, modified, or repealed.

1979 (b) For purposes of the study required by this Subsection (5), the office shall provide
1980 the following information to the Revenue and Taxation Interim Committee:

- 1981 (i) the amount of tax credit the office grants to each taxpayer for each calendar year;
- 1982 (ii) the criteria the office uses in granting a tax credit;
- 1983 (iii) the dollars left in the state, as defined in Section [~~63M-1-1802~~] 63N-8-102, by
- 1984 each motion picture company for each calendar year;
- 1985 (iv) the information contained in the office's latest report to the Legislature under
- 1986 Section [~~63M-1-1805~~] 63N-8-105; and
- 1987 (v) any other information requested by the Revenue and Taxation Interim Committee.
- 1988 (c) The Revenue and Taxation Interim Committee shall ensure that its
- 1989 recommendations under Subsection (5)(a) include an evaluation of:
- 1990 (i) the cost of the tax credit to the state;
- 1991 (ii) the effectiveness of the tax credit; and
- 1992 (iii) the extent to which the state benefits from the tax credit.
- 1993 Section 32. Section **59-10-1109** is amended to read:
- 1994 **59-10-1109. Refundable tax credit for certain business entities generating state**
- 1995 **tax revenue increases.**
- 1996 (1) As used in this section:
- 1997 (a) "Eligible business entity" is as defined in Section [~~63M-1-2902~~] 63N-2-802.
- 1998 (b) "Eligible new state tax revenues" is as defined in Section [~~63M-1-2902~~]
- 1999 63N-2-802.
- 2000 (c) "Office" means the Governor's Office of Economic Development.
- 2001 (d) "Pass-through entity" is as defined in Section 59-10-1402.
- 2002 (e) "Pass-through entity taxpayer" is as defined in Section 59-10-1402.
- 2003 (f) "Qualifying agreement" is as defined in Section 59-7-614.6.
- 2004 (2) Subject to the other provisions of this section, an eligible business entity may:
- 2005 (a) claim a refundable tax credit as provided in Subsection (3); or
- 2006 (b) if the eligible business entity is a pass-through entity, pass through to one or more
- 2007 pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part
- 2008 14, Pass-through Entities and Pass-through Entity Taxpayers Act, a refundable tax credit that
- 2009 the eligible business entity could otherwise claim under this section.
- 2010 (3) (a) Except as provided in Subsection (3)(b), the amount of the tax credit is:
- 2011 (i) for an eligible business entity, an amount up to the amount listed on the tax credit

2012 certificate that the office issues to the eligible business entity for the taxable year in accordance
2013 with Section [~~63M-1-2908~~] 63N-2-808; or

2014 (ii) for a pass-through entity taxpayer, an amount up to the amount of a tax credit that
2015 an eligible business entity passes through to the pass-through entity taxpayer of the
2016 pass-through entity in accordance with Subsection (2)(b) or Subsection ~~59-7-614.6~~(2)(b).

2017 (b) Subject to Subsection (3)(c), a tax credit under this section may not exceed the
2018 amount of eligible new state tax revenues generated by an eligible business entity for the
2019 taxable year for which the eligible business entity claims a tax credit under this section.

2020 (c) A tax credit under this section for an eligible business entity that enters into a
2021 qualifying agreement may not exceed:

2022 (i) for the taxable year in which the eligible business entity first generates eligible new
2023 state tax revenues and the two following years, the amount of eligible new state tax revenues
2024 generated by the eligible business entity; and

2025 (ii) for the seven taxable years following the last of the three taxable years described in
2026 Subsection (3)(c)(i), 75% of the amount of eligible new state tax revenues generated by the
2027 eligible business entity.

2028 (4) An eligible business entity or pass-through entity taxpayer to which an eligible
2029 business entity passes through a tax credit in accordance with Subsection (2)(b) or Subsection
2030 ~~59-7-614.6~~(2)(b) may only claim or pass through a tax credit under this section for a taxable
2031 year for which the eligible business entity holds a tax credit certificate issued in accordance
2032 with Section [~~63M-1-2908~~] 63N-2-808.

2033 (5) An eligible business entity or a pass-through entity taxpayer may not:

2034 (a) carry forward or carry back a tax credit under this section; or

2035 (b) claim a tax credit under both this section and Section ~~59-7-614.6~~.

2036 Section 33. Section **59-10-1110** is amended to read:

2037 **59-10-1110. Refundable tax credit for certain business entities.**

2038 (1) As used in this section:

2039 (a) "Office" means the Governor's Office of Economic Development.

2040 (b) "Pass-through entity" has the same meaning as defined in Section ~~59-10-1402~~.

2041 (c) "Pass-through entity taxpayer" has the same meaning as defined in Section

2042 ~~59-10-1402~~.

2043 (d) "Tax credit certificate" has the same meaning as defined in Section [[63M-1-3402](#)]
2044 [63N-2-502](#).

2045 (e) "Tax credit recipient" has the same meaning as defined in Section [[63M-1-3402](#)]
2046 [63N-2-502](#).

2047 (2) (a) Subject to the other provisions of this section, a tax credit recipient may claim a
2048 refundable tax credit as provided in Subsection (3).

2049 (b) If the tax credit recipient is a pass-through entity, the pass-through entity shall pass
2050 through to one or more pass-through entity taxpayers of the pass-through entity, in accordance
2051 with Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act, a
2052 refundable tax credit that the tax credit recipient could otherwise claim under this section.

2053 (3) The amount of a tax credit is the amount listed as the tax credit amount on the tax
2054 credit certificate that the office issues to the tax credit recipient for the taxable year.

2055 (4) A tax credit recipient:

2056 (a) may claim or pass through a tax credit in a taxable year other than the taxable year
2057 during which the tax credit recipient has been issued a tax credit certificate; and

2058 (b) may not claim a tax credit under both this section and Section [59-7-616](#).

2059 (5) (a) In accordance with any rules prescribed by the commission under Subsection
2060 (5)(b), the commission shall:

2061 (i) make a refund to a tax credit recipient that claims a tax credit under this section if
2062 the amount of the tax credit exceeds the tax credit recipient's tax liability under this chapter;
2063 and

2064 (ii) transfer at least annually from the General Fund into the Education Fund an amount
2065 equal to the amount of tax credit claimed under this section.

2066 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2067 commission may make rules providing procedures for making:

2068 (i) a refund to a tax credit recipient or pass-through entity taxpayer as required by
2069 Subsection (5)(a)(i); or

2070 (ii) transfers from the General Fund into the Education Fund as required by Subsection
2071 (5)(a)(ii).

2072 Section 34. Section **59-12-103** is amended to read:

2073 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**

2074 **tax revenues.**

2075 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
2076 charged for the following transactions:

2077 (a) retail sales of tangible personal property made within the state;

2078 (b) amounts paid for:

2079 (i) telecommunications service, other than mobile telecommunications service, that
2080 originates and terminates within the boundaries of this state;

2081 (ii) mobile telecommunications service that originates and terminates within the
2082 boundaries of one state only to the extent permitted by the Mobile Telecommunications
2083 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

2084 (iii) an ancillary service associated with a:

2085 (A) telecommunications service described in Subsection (1)(b)(i); or

2086 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

2087 (c) sales of the following for commercial use:

2088 (i) gas;

2089 (ii) electricity;

2090 (iii) heat;

2091 (iv) coal;

2092 (v) fuel oil; or

2093 (vi) other fuels;

2094 (d) sales of the following for residential use:

2095 (i) gas;

2096 (ii) electricity;

2097 (iii) heat;

2098 (iv) coal;

2099 (v) fuel oil; or

2100 (vi) other fuels;

2101 (e) sales of prepared food;

2102 (f) except as provided in Section [59-12-104](#), amounts paid or charged as admission or
2103 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
2104 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,

2105 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
2106 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
2107 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
2108 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
2109 horseback rides, sports activities, or any other amusement, entertainment, recreation,
2110 exhibition, cultural, or athletic activity;

2111 (g) amounts paid or charged for services for repairs or renovations of tangible personal
2112 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

2113 (i) the tangible personal property; and

2114 (ii) parts used in the repairs or renovations of the tangible personal property described
2115 in Subsection (1)(g)(i), regardless of whether:

2116 (A) any parts are actually used in the repairs or renovations of that tangible personal
2117 property; or

2118 (B) the particular parts used in the repairs or renovations of that tangible personal
2119 property are exempt from a tax under this chapter;

2120 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
2121 assisted cleaning or washing of tangible personal property;

2122 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
2123 accommodations and services that are regularly rented for less than 30 consecutive days;

2124 (j) amounts paid or charged for laundry or dry cleaning services;

2125 (k) amounts paid or charged for leases or rentals of tangible personal property if within
2126 this state the tangible personal property is:

2127 (i) stored;

2128 (ii) used; or

2129 (iii) otherwise consumed;

2130 (l) amounts paid or charged for tangible personal property if within this state the
2131 tangible personal property is:

2132 (i) stored;

2133 (ii) used; or

2134 (iii) consumed; and

2135 (m) amounts paid or charged for a sale:

2136 (i) (A) of a product transferred electronically; or
2137 (B) of a repair or renovation of a product transferred electronically; and
2138 (ii) regardless of whether the sale provides:
2139 (A) a right of permanent use of the product; or
2140 (B) a right to use the product that is less than a permanent use, including a right:
2141 (I) for a definite or specified length of time; and
2142 (II) that terminates upon the occurrence of a condition.
2143 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
2144 is imposed on a transaction described in Subsection (1) equal to the sum of:
2145 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
2146 (A) 4.70%; and
2147 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
2148 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
2149 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
2150 State Sales and Use Tax Act; and
2151 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
2152 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
2153 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
2154 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
2155 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2156 transaction under this chapter other than this part.
2157 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
2158 on a transaction described in Subsection (1)(d) equal to the sum of:
2159 (i) a state tax imposed on the transaction at a tax rate of 2%; and
2160 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2161 transaction under this chapter other than this part.
2162 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
2163 on amounts paid or charged for food and food ingredients equal to the sum of:
2164 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
2165 a tax rate of 1.75%; and
2166 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

2167 amounts paid or charged for food and food ingredients under this chapter other than this part.

2168 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
2169 tangible personal property other than food and food ingredients, a state tax and a local tax is
2170 imposed on the entire bundled transaction equal to the sum of:

2171 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

2172 (I) the tax rate described in Subsection (2)(a)(i)(A); and

2173 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
2174 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2175 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
2176 Additional State Sales and Use Tax Act; and

2177 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
2178 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2179 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
2180 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2181 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
2182 described in Subsection (2)(a)(ii).

2183 (ii) If an optional computer software maintenance contract is a bundled transaction that
2184 consists of taxable and nontaxable products that are not separately itemized on an invoice or
2185 similar billing document, the purchase of the optional computer software maintenance contract
2186 is 40% taxable under this chapter and 60% nontaxable under this chapter.

2187 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
2188 transaction described in Subsection (2)(d)(i) or (ii):

2189 (A) if the sales price of the bundled transaction is attributable to tangible personal
2190 property, a product, or a service that is subject to taxation under this chapter and tangible
2191 personal property, a product, or service that is not subject to taxation under this chapter, the
2192 entire bundled transaction is subject to taxation under this chapter unless:

2193 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2194 personal property, product, or service that is not subject to taxation under this chapter from the
2195 books and records the seller keeps in the seller's regular course of business; or

2196 (II) state or federal law provides otherwise; or

2197 (B) if the sales price of a bundled transaction is attributable to two or more items of

2198 tangible personal property, products, or services that are subject to taxation under this chapter
2199 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
2200 higher tax rate unless:

2201 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2202 personal property, product, or service that is subject to taxation under this chapter at the lower
2203 tax rate from the books and records the seller keeps in the seller's regular course of business; or

2204 (II) state or federal law provides otherwise.

2205 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
2206 seller's regular course of business includes books and records the seller keeps in the regular
2207 course of business for nontax purposes.

2208 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
2209 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
2210 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
2211 of tangible personal property, other property, a product, or a service that is not subject to
2212 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
2213 the seller, at the time of the transaction:

2214 (A) separately states the portion of the transaction that is not subject to taxation under
2215 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

2216 (B) is able to identify by reasonable and verifiable standards, from the books and
2217 records the seller keeps in the seller's regular course of business, the portion of the transaction
2218 that is not subject to taxation under this chapter.

2219 (ii) A purchaser and a seller may correct the taxability of a transaction if:

2220 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
2221 the transaction that is not subject to taxation under this chapter was not separately stated on an
2222 invoice, bill of sale, or similar document provided to the purchaser because of an error or
2223 ignorance of the law; and

2224 (B) the seller is able to identify by reasonable and verifiable standards, from the books
2225 and records the seller keeps in the seller's regular course of business, the portion of the
2226 transaction that is not subject to taxation under this chapter.

2227 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
2228 in the seller's regular course of business includes books and records the seller keeps in the

2229 regular course of business for nontax purposes.

2230 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
2231 personal property, products, or services that are subject to taxation under this chapter at
2232 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
2233 unless the seller, at the time of the transaction:

2234 (A) separately states the items subject to taxation under this chapter at each of the
2235 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

2236 (B) is able to identify by reasonable and verifiable standards the tangible personal
2237 property, product, or service that is subject to taxation under this chapter at the lower tax rate
2238 from the books and records the seller keeps in the seller's regular course of business.

2239 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
2240 seller's regular course of business includes books and records the seller keeps in the regular
2241 course of business for nontax purposes.

2242 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
2243 rate imposed under the following shall take effect on the first day of a calendar quarter:

2244 (i) Subsection (2)(a)(i)(A);

2245 (ii) Subsection (2)(b)(i);

2246 (iii) Subsection (2)(c)(i); or

2247 (iv) Subsection (2)(d)(i)(A)(I).

2248 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
2249 begins on or after the effective date of the tax rate increase if the billing period for the
2250 transaction begins before the effective date of a tax rate increase imposed under:

2251 (A) Subsection (2)(a)(i)(A);

2252 (B) Subsection (2)(b)(i);

2253 (C) Subsection (2)(c)(i); or

2254 (D) Subsection (2)(d)(i)(A)(I).

2255 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
2256 statement for the billing period is rendered on or after the effective date of the repeal of the tax
2257 or the tax rate decrease imposed under:

2258 (A) Subsection (2)(a)(i)(A);

2259 (B) Subsection (2)(b)(i);

- 2260 (C) Subsection (2)(c)(i); or
- 2261 (D) Subsection (2)(d)(i)(A)(I).
- 2262 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
- 2263 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
- 2264 change in a tax rate takes effect:
 - 2265 (A) on the first day of a calendar quarter; and
 - 2266 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 2267 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:
 - 2268 (A) Subsection (2)(a)(i)(A);
 - 2269 (B) Subsection (2)(b)(i);
 - 2270 (C) Subsection (2)(c)(i); or
 - 2271 (D) Subsection (2)(d)(i)(A)(I).
- 2272 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 2273 the commission may by rule define the term "catalogue sale."
- 2274 (3) (a) The following state taxes shall be deposited into the General Fund:
 - 2275 (i) the tax imposed by Subsection (2)(a)(i)(A);
 - 2276 (ii) the tax imposed by Subsection (2)(b)(i);
 - 2277 (iii) the tax imposed by Subsection (2)(c)(i); or
 - 2278 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
- 2279 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 2280 in this chapter:
 - 2281 (i) the tax imposed by Subsection (2)(a)(ii);
 - 2282 (ii) the tax imposed by Subsection (2)(b)(ii);
 - 2283 (iii) the tax imposed by Subsection (2)(c)(ii); and
 - 2284 (iv) the tax imposed by Subsection (2)(d)(i)(B).
- 2285 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
- 2286 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
- 2287 through (g):
 - 2288 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
 - 2289 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
 - 2290 (B) for the fiscal year; or

- 2291 (ii) \$17,500,000.
- 2292 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
2293 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
2294 Department of Natural Resources to:
- 2295 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
2296 protect sensitive plant and animal species; or
- 2297 (B) award grants, up to the amount authorized by the Legislature in an appropriations
2298 act, to political subdivisions of the state to implement the measures described in Subsections
2299 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.
- 2300 (ii) Money transferred to the Department of Natural Resources under Subsection
2301 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
2302 person to list or attempt to have listed a species as threatened or endangered under the
2303 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.
- 2304 (iii) At the end of each fiscal year:
- 2305 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2306 Conservation and Development Fund created in Section 73-10-24;
- 2307 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2308 Program Subaccount created in Section 73-10c-5; and
- 2309 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2310 Program Subaccount created in Section 73-10c-5.
- 2311 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
2312 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
2313 created in Section 4-18-106.
- 2314 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
2315 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
2316 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
2317 water rights.
- 2318 (ii) At the end of each fiscal year:
- 2319 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2320 Conservation and Development Fund created in Section 73-10-24;
- 2321 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

2322 Program Subaccount created in Section 73-10c-5; and

2323 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2324 Program Subaccount created in Section 73-10c-5.

2325 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
2326 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
2327 Fund created in Section 73-10-24 for use by the Division of Water Resources.

2328 (ii) In addition to the uses allowed of the Water Resources Conservation and
2329 Development Fund under Section 73-10-24, the Water Resources Conservation and
2330 Development Fund may also be used to:

2331 (A) conduct hydrologic and geotechnical investigations by the Division of Water
2332 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
2333 quantifying surface and ground water resources and describing the hydrologic systems of an
2334 area in sufficient detail so as to enable local and state resource managers to plan for and
2335 accommodate growth in water use without jeopardizing the resource;

2336 (B) fund state required dam safety improvements; and

2337 (C) protect the state's interest in interstate water compact allocations, including the
2338 hiring of technical and legal staff.

2339 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2340 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
2341 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

2342 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2343 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
2344 created in Section 73-10c-5 for use by the Division of Drinking Water to:

2345 (i) provide for the installation and repair of collection, treatment, storage, and
2346 distribution facilities for any public water system, as defined in Section 19-4-102;

2347 (ii) develop underground sources of water, including springs and wells; and

2348 (iii) develop surface water sources.

2349 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2350 2006, the difference between the following amounts shall be expended as provided in this
2351 Subsection (5), if that difference is greater than \$1:

2352 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the

- 2353 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and
- 2354 (ii) \$17,500,000.
- 2355 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:
- 2356 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
- 2357 credits; and
- 2358 (B) expended by the Department of Natural Resources for watershed rehabilitation or
- 2359 restoration.
- 2360 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
- 2361 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
- 2362 created in Section 73-10-24.
- 2363 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
- 2364 remaining difference described in Subsection (5)(a) shall be:
- 2365 (A) transferred each fiscal year to the Division of Water Resources as dedicated
- 2366 credits; and
- 2367 (B) expended by the Division of Water Resources for cloud-seeding projects
- 2368 authorized by Title 73, Chapter 15, Modification of Weather.
- 2369 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
- 2370 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
- 2371 created in Section 73-10-24.
- 2372 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
- 2373 remaining difference described in Subsection (5)(a) shall be deposited into the Water
- 2374 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
- 2375 Division of Water Resources for:
- 2376 (i) preconstruction costs:
- 2377 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
- 2378 26, Bear River Development Act; and
- 2379 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
- 2380 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;
- 2381 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
- 2382 Chapter 26, Bear River Development Act;
- 2383 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project

2384 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

2385 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
2386 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

2387 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
2388 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be
2389 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
2390 incurred for employing additional technical staff for the administration of water rights.

2391 (f) At the end of each fiscal year, any unexpended dedicated credits described in
2392 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
2393 Fund created in Section 73-10-24.

2394 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2395 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
2396 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
2397 the Transportation Fund created by Section 72-2-102.

2398 (7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of
2399 Finance shall deposit into the Transportation Investment Fund of 2005 created in Section
2400 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
2401 by a 1/64% tax rate on the taxable transactions under Subsection (1).

2402 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
2403 Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1,
2404 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
2405 created by Section 72-2-124:

2406 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
2407 the revenues collected from the following taxes, which represents a portion of the
2408 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
2409 on vehicles and vehicle-related products:

2410 (A) the tax imposed by Subsection (2)(a)(i)(A);

2411 (B) the tax imposed by Subsection (2)(b)(i);

2412 (C) the tax imposed by Subsection (2)(c)(i); and

2413 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

2414 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the

2415 current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through
2416 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
2417 (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

2418 (b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of
2419 the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total
2420 lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D)
2421 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
2422 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
2423 (8)(a) equal to the product of:

2424 (A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the
2425 previous fiscal year; and

2426 (B) the total sales and use tax revenue generated by the taxes described in Subsections
2427 (8)(a)(i)(A) through (D) in the current fiscal year.

2428 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
2429 Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes
2430 described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of
2431 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
2432 Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).

2433 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
2434 from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) was deposited
2435 under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues
2436 collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the
2437 current fiscal year under Subsection (8)(a).

2438 (9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
2439 Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of
2440 Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under
2441 Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section
2442 [72-2-124](#).

2443 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
2444 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
2445 created by Section [35A-8-1009](#) and expended as provided in Section [35A-8-1009](#).

2446 (11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b),
2447 and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July
2448 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
2449 created by Section [72-2-124](#) the amount of tax revenue generated by a .025% tax rate on the
2450 transactions described in Subsection (1).

2451 (b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into
2452 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or
2453 charged for food and food ingredients, except for tax revenue generated by a bundled
2454 transaction attributable to food and food ingredients and tangible personal property other than
2455 food and food ingredients described in Subsection (2)(d).

2456 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection
2457 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the
2458 Transportation Fund created by Section [72-2-102](#) the amount of tax revenue generated by a
2459 .025% tax rate on the transactions described in Subsection (1) to be expended to address
2460 chokepoints in construction management.

2461 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into
2462 the Transportation Fund any tax revenue generated by amounts paid or charged for food and
2463 food ingredients, except for tax revenue generated by a bundled transaction attributable to food
2464 and food ingredients and tangible personal property other than food and food ingredients
2465 described in Subsection (2)(d).

2466 (13) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
2467 fiscal year during which the Division of Finance receives notice under Subsection
2468 [~~63M-1-3410~~] [63N-2-510\(3\)](#) that construction on a qualified hotel, as defined in Section
2469 [~~63M-1-3402~~] [63N-2-502](#), has begun, the Division of Finance shall, for two consecutive fiscal
2470 years, annually deposit \$1,900,000 of the revenue generated by the taxes listed under
2471 Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section [~~63M-1-3412~~]
2472 [63N-2-512](#).

2473 (14) Notwithstanding Subsections (4) through (13), an amount required to be expended
2474 or deposited in accordance with Subsections (4) through (13) may not include an amount the
2475 Division of Finance deposits in accordance with Section [59-12-103.2](#).

2476 Section 35. Section **59-12-301** is amended to read:

2477 **59-12-301. Transient room tax -- Rate -- Expenditure of revenues -- Enactment or**
2478 **repeal of tax -- Tax rate change -- Effective date -- Notice requirements.**

2479 (1) (a) A county legislative body may impose a tax on charges for the accommodations
2480 and services described in Subsection [59-12-103\(1\)\(i\)](#) at a rate of not to exceed 4.25%
2481 beginning on or after October 1, 2006.

2482 (b) Subject to Subsection (2), the revenues raised from the tax imposed under
2483 Subsection (1)(a) shall be used for the purposes listed in Section [17-31-2](#).

2484 (c) The tax imposed under Subsection (1)(a) shall be in addition to the tax imposed
2485 under Part 6, Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax.

2486 (2) If a county legislative body of a county of the first class imposes a tax under this
2487 section, beginning on July 1, 2007, and ending on June 30, 2027, each year the first 15% of the
2488 revenues collected from the tax authorized by Subsection (1)(a) within that county shall be:

2489 (a) deposited into the Transient Room Tax Fund created by Section [[63M-1-2203](#)]
2490 [63N-3-403](#); and

2491 (b) expended as provided in Section [[63M-1-2203](#)] [63N-3-403](#).

2492 (3) Subject to Subsection (4), a county legislative body:

2493 (a) may increase or decrease the tax authorized under this part; and

2494 (b) shall regulate the tax authorized under this part by ordinance.

2495 (4) (a) For purposes of this Subsection (4):

2496 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County
2497 Consolidations and Annexations.

2498 (ii) "Annexing area" means an area that is annexed into a county.

2499 (b) (i) Except as provided in Subsection (4)(c), if, on or after July 1, 2004, a county
2500 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or
2501 change shall take effect:

2502 (A) on the first day of a calendar quarter; and

2503 (B) after a 90-day period beginning on the date the commission receives notice meeting
2504 the requirements of Subsection (4)(b)(ii) from the county.

2505 (ii) The notice described in Subsection (4)(b)(i)(B) shall state:

2506 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

2507 (B) the statutory authority for the tax described in Subsection (4)(b)(ii)(A);

2508 (C) the effective date of the tax described in Subsection (4)(b)(ii)(A); and
2509 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
2510 (4)(b)(ii)(A), the rate of the tax.

2511 (c) (i) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection
2512 (4)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
2513 first billing period:

2514 (A) that begins after the effective date of the enactment of the tax or the tax rate
2515 increase; and

2516 (B) if the billing period for the transaction begins before the effective date of the
2517 enactment of the tax or the tax rate increase imposed under this section.

2518 (ii) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection
2519 (4)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
2520 billing period:

2521 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
2522 and

2523 (B) if the billing period for the transaction begins before the effective date of the repeal
2524 of the tax or the tax rate decrease imposed under this section.

2525 (iii) Subsections (4)(c)(i) and (ii) apply to transactions subject to a tax under
2526 Subsection [59-12-103\(1\)\(i\)](#).

2527 (d) (i) Except as provided in Subsection (4)(e), if, for an annexation that occurs on or
2528 after July 1, 2004, the annexation will result in the enactment, repeal, or a change in the rate of
2529 a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

2530 (A) on the first day of a calendar quarter; and

2531 (B) after a 90-day period beginning on the date the commission receives notice meeting
2532 the requirements of Subsection (4)(d)(ii) from the county that annexes the annexing area.

2533 (ii) The notice described in Subsection (4)(d)(i)(B) shall state:

2534 (A) that the annexation described in Subsection (4)(d)(i) will result in an enactment,
2535 repeal, or change in the rate of a tax under this part for the annexing area;

2536 (B) the statutory authority for the tax described in Subsection (4)(d)(ii)(A);

2537 (C) the effective date of the tax described in Subsection (4)(d)(ii)(A); and

2538 (D) if the county enacts the tax or changes the rate of the tax described in Subsection

2539 (4)(d)(ii)(A), the rate of the tax.

2540 (e) (i) Notwithstanding Subsection (4)(d)(i), for a transaction described in Subsection
2541 (4)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
2542 first billing period:

2543 (A) that begins after the effective date of the enactment of the tax or the tax rate
2544 increase; and

2545 (B) if the billing period for the transaction begins before the effective date of the
2546 enactment of the tax or the tax rate increase imposed under this section.

2547 (ii) Notwithstanding Subsection (4)(d)(i), for a transaction described in Subsection
2548 (4)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
2549 billing period:

2550 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
2551 and

2552 (B) if the billing period for the transaction begins before the effective date of the repeal
2553 of the tax or the tax rate decrease imposed under this section.

2554 (iii) Subsections (4)(e)(i) and (ii) apply to transactions subject to a tax under
2555 Subsection [59-12-103](#)(1)(i).

2556 Section 36. Section **63A-3-402** is amended to read:

2557 **63A-3-402. Utah Public Finance Website -- Establishment and administration --**
2558 **Records disclosure -- Exceptions.**

2559 (1) There is created the Utah Public Finance Website to be administered by the
2560 Division of Finance with the technical assistance of the Department of Technology Services.

2561 (2) The Utah Public Finance Website shall:

2562 (a) permit Utah taxpayers to:

2563 (i) view, understand, and track the use of taxpayer dollars by making public financial
2564 information available on the Internet for participating state entities, independent entities, and
2565 participating local entities, using the Utah Public Finance Website; and

2566 (ii) link to websites administered by participating local entities or independent entities
2567 that do not use the Utah Public Finance Website for the purpose of providing participating
2568 local entities' or independent entities' public financial information as required by this part and
2569 by rule under Section [63A-3-404](#);

- 2570 (b) allow a person who has Internet access to use the website without paying a fee;
- 2571 (c) allow the public to search public financial information on the Utah Public Finance
- 2572 Website using criteria established by the board;
- 2573 (d) provide access to financial reports, financial audits, budgets, or other financial
- 2574 documents that are used to allocate, appropriate, spend, and account for government funds, as
- 2575 may be established by rule under Section [63A-3-404](#);
- 2576 (e) have a unique and simplified website address;
- 2577 (f) be directly accessible via a link from the main page of the official state website;
- 2578 (g) include other links, features, or functionality that will assist the public in obtaining
- 2579 and reviewing public financial information, as may be established by rule under Section
- 2580 [63A-3-404](#); and
- 2581 (h) include a link to school report cards published on the State Board of Education's
- 2582 website pursuant to Section [53A-1-1112](#).
- 2583 (3) The division shall:
- 2584 (a) establish and maintain the website, including the provision of equipment, resources,
- 2585 and personnel as necessary;
- 2586 (b) maintain an archive of all information posted to the website;
- 2587 (c) coordinate and process the receipt and posting of public financial information from
- 2588 participating state entities;
- 2589 (d) coordinate and regulate the posting of public financial information by participating
- 2590 local entities and independent entities; and
- 2591 (e) provide staff support for the advisory committee.
- 2592 (4) (a) A participating state entity and each independent entity shall permit the public
- 2593 to view the entity's public financial information via the website, beginning with information
- 2594 that is generated not later than the fiscal year that begins July 1, 2008, except that public
- 2595 financial information for an:
- 2596 (i) institution of higher education shall be provided beginning with information
- 2597 generated for the fiscal year beginning July 1, 2009; and
- 2598 (ii) independent entity shall be provided beginning with information generated for the
- 2599 entity's fiscal year beginning in 2014.
- 2600 (b) No later than May 15, 2009, the website shall:

2601 (i) be operational; and

2602 (ii) permit public access to participating state entities' public financial information,
2603 except as provided in Subsections (4)(c) and (d).

2604 (c) An institution of higher education that is a participating state entity shall submit the
2605 entity's public financial information at a time allowing for inclusion on the website no later
2606 than May 15, 2010.

2607 (d) No later than the first full quarter after July 1, 2014, an independent entity shall
2608 submit the entity's public financial information for inclusion on the Utah Public Finance
2609 Website or via a link to its own website on the Utah Public Finance Website.

2610 (5) (a) The Utah Educational Savings Plan, created in Section [53B-8a-103](#), shall
2611 provide the following financial information to the division for posting on the Utah Public
2612 Finance Website:

2613 (i) administrative fund expense transactions from its general ledger accounting system;
2614 and

2615 (ii) employee compensation information.

2616 (b) The plan is not required to submit other financial information to the division,
2617 including:

2618 (i) revenue transactions;

2619 (ii) account owner transactions; and

2620 (iii) fiduciary or commercial information, as defined in Section [53B-12-102](#).

2621 (6) (a) The following independent entities shall each provide administrative expense
2622 transactions from its general ledger accounting system and employee compensation
2623 information to the division for posting on the Utah Public Finance Website or via a link to a
2624 website administered by the independent entity:

2625 (i) the Utah Capital Investment Corporation, created in Section [[63M-1-1207](#)]
2626 [63N-6-301](#);

2627 (ii) the Utah Housing Corporation, created in Section [35A-8-704](#); and

2628 (iii) the School and Institutional Trust Lands Administration, created in Section
2629 [53C-1-201](#).

2630 (b) For purposes of this part, an independent entity described in Subsection (6)(a) is not
2631 required to submit to the division, or provide a link to, other financial information, including:

2632 (i) revenue transactions of a fund or account created in its enabling statute;
2633 (ii) fiduciary or commercial information related to any subject if the disclosure of the
2634 information:

2635 (A) would conflict with fiduciary obligations; or

2636 (B) is prohibited by insider trading provisions;

2637 (iii) information of a commercial nature, including information related to:

2638 (A) account owners, borrowers, and dependents;

2639 (B) demographic data;

2640 (C) contracts and related payments;

2641 (D) negotiations;

2642 (E) proposals or bids;

2643 (F) investments;

2644 (G) the investment and management of funds;

2645 (H) fees and charges;

2646 (I) plan and program design;

2647 (J) investment options and underlying investments offered to account owners;

2648 (K) marketing and outreach efforts;

2649 (L) lending criteria;

2650 (M) the structure and terms of bonding; and

2651 (N) financial plans or strategies; and

2652 (iv) information protected from public disclosure by federal law.

2653 (7) (a) As used in this Subsection (7):

2654 (i) "Local education agency" means a school district or a charter school.

2655 (ii) "New school building project" means the construction of a school that did not
2656 previously exist in a local education agency.

2657 (iii) "Significant school remodel" means the upgrading, changing, alteration,
2658 refurbishment, modification, or complete substitution of an existing school in a local education
2659 agency with a project cost equal to or in excess of \$2,000,000.

2660 (b) For each new school building project or significant school remodel, the local
2661 education agency shall:

2662 (i) prepare an annual school plant capital outlay report; and

- 2663 (ii) submit the report:
- 2664 (A) to the division for publication on the Utah Public Finance Website; and
- 2665 (B) in a format, including any raw data or electronic formatting, prescribed by
- 2666 applicable division policy.
- 2667 (c) The local education agency shall include in the capital outlay report described in
- 2668 Subsection (7)(b)(i) the following information as applicable to each new school building
- 2669 project or significant school remodel:
- 2670 (i) the name and location of the project or remodel;
- 2671 (ii) construction and design costs, including:
- 2672 (A) the purchase price or lease terms of any real property acquired or leased for the
- 2673 project or remodel;
- 2674 (B) facility construction;
- 2675 (C) facility and landscape design;
- 2676 (D) applicable impact fees; and
- 2677 (E) furnishings and equipment;
- 2678 (iii) the gross square footage of the project or remodel;
- 2679 (iv) the year construction was completed; and
- 2680 (v) the final student capacity of the new school building project or, for a significant
- 2681 school remodel, the increase or decrease in student capacity created by the remodel.
- 2682 (d) (i) For a cost, fee, or other expense required to be reported under Subsection (7)(c),
- 2683 the local education agency shall report the actual cost, fee, or other expense.
- 2684 (ii) The division may require that a local education agency provide further itemized
- 2685 data on information listed in Subsection (7)(c).
- 2686 (e) (i) No later than May 15, 2015, a local education agency shall provide the division a
- 2687 school plant capital outlay report for each new school building project and significant school
- 2688 remodel completed on or after July 1, 2004, and before May 13, 2014.
- 2689 (ii) For a new school building project or significant school remodel completed after
- 2690 May 13, 2014, the local education agency shall provide the school plant capital outlay report
- 2691 described in this Subsection (7) to the division annually by a date designated by the division.
- 2692 (8) A person who negligently discloses a record that is classified as private, protected,
- 2693 or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is

2694 not criminally or civilly liable for an improper disclosure of the record if the record is disclosed
2695 solely as a result of the preparation or publication of the Utah Public Finance Website.

2696 Section 37. Section **63E-1-102** is amended to read:

2697 **63E-1-102. Definitions -- List of independent entities.**

2698 As used in this title:

2699 (1) "Authorizing statute" means the statute creating an entity as an independent entity.

2700 (2) "Committee" means the Retirement and Independent Entities Committee created by
2701 Section [63E-1-201](#).

2702 (3) "Independent corporation" means a corporation incorporated in accordance with
2703 Chapter 2, Independent Corporations Act.

2704 (4) (a) "Independent entity" means an entity having a public purpose relating to the
2705 state or its citizens that is individually created by the state or is given by the state the right to
2706 exist and conduct its affairs as an:

2707 (i) independent state agency; or

2708 (ii) independent corporation.

2709 (b) "Independent entity" includes the:

2710 (i) Utah Dairy Commission created by Section [4-22-2](#);

2711 (ii) Heber Valley Historic Railroad Authority created by Section [63H-4-102](#);

2712 (iii) Utah State Railroad Museum Authority created by Section [63H-5-102](#);

2713 (iv) Utah Science Center Authority created by Section [63H-3-103](#);

2714 (v) Utah Housing Corporation created by Section [35A-8-704](#);

2715 (vi) Utah State Fair Corporation created by Section [63H-6-103](#);

2716 (vii) Workers' Compensation Fund created by Section [31A-33-102](#);

2717 (viii) Utah State Retirement Office created by Section [49-11-201](#);

2718 (ix) School and Institutional Trust Lands Administration created by Section
2719 [53C-1-201](#);

2720 (x) School and Institutional Trust Fund Office created by Section [53D-1-201](#);

2721 (xi) Utah Communications Authority created in Section [63H-7-201](#);

2722 (xii) Utah Energy Infrastructure Authority created by Section [63H-2-201](#);

2723 (xiii) Utah Capital Investment Corporation created by Section [~~[63M-1-1207](#)~~]

2724 [63N-6-301](#); and

- 2725 (xiv) Military Installation Development Authority created by Section 63H-1-201.
- 2726 (c) Notwithstanding this Subsection (4), "independent entity" does not include:
- 2727 (i) the Public Service Commission of Utah created by Section 54-1-1;
- 2728 (ii) an institution within the state system of higher education;
- 2729 (iii) a city, county, or town;
- 2730 (iv) a local school district;
- 2731 (v) a local district under Title 17B, Limited Purpose Local Government Entities - Local
- 2732 Districts; or
- 2733 (vi) a special service district under Title 17D, Chapter 1, Special Service District Act.
- 2734 (5) "Independent state agency" means an entity that is created by the state, but is
- 2735 independent of the governor's direct supervisory control.
- 2736 (6) "Money held in trust" means money maintained for the benefit of:
- 2737 (a) one or more private individuals, including public employees;
- 2738 (b) one or more public or private entities; or
- 2739 (c) the owners of a quasi-public corporation.
- 2740 (7) "Public corporation" means an artificial person, public in ownership, individually
- 2741 created by the state as a body politic and corporate for the administration of a public purpose
- 2742 relating to the state or its citizens.
- 2743 (8) "Quasi-public corporation" means an artificial person, private in ownership,
- 2744 individually created as a corporation by the state which has accepted from the state the grant of
- 2745 a franchise or contract involving the performance of a public purpose relating to the state or its
- 2746 citizens.
- 2747 Section 38. Section 63F-1-205 is amended to read:
- 2748 **63F-1-205. Approval of acquisitions of information technology.**
- 2749 (1) (a) Except as provided in Title [~~63M~~] 63N, Chapter [~~+~~] 13, Part [~~26~~] 2,
- 2750 Government Procurement Private Proposal Program, in accordance with Subsection (2), the
- 2751 chief information officer shall approve the acquisition by an executive branch agency of:
- 2752 (i) information technology equipment;
- 2753 (ii) telecommunications equipment;
- 2754 (iii) software;
- 2755 (iv) services related to the items listed in Subsections (1)(a)(i) through (iii); and

2756 (v) data acquisition.

2757 (b) The chief information officer may negotiate the purchase, lease, or rental of private
2758 or public information technology or telecommunication services or facilities in accordance with
2759 this section.

2760 (c) Where practical, efficient, and economically beneficial, the chief information
2761 officer shall use existing private and public information technology or telecommunication
2762 resources.

2763 (d) Notwithstanding another provision of this section, an acquisition authorized by this
2764 section shall comply with rules made by the applicable rulemaking authority under Title 63G,
2765 Chapter 6a, Utah Procurement Code.

2766 (2) Before negotiating a purchase, lease, or rental under Subsection (1) for an amount
2767 that exceeds the value established by the chief information officer by rule in accordance with
2768 Section 63F-1-206, the chief information officer shall:

2769 (a) conduct an analysis of the needs of executive branch agencies and subscribers of
2770 services and the ability of the proposed information technology or telecommunications services
2771 or supplies to meet those needs; and

2772 (b) for purchases, leases, or rentals not covered by an existing statewide contract,
2773 provide in writing to the chief procurement officer in the Division of Purchasing and General
2774 Services that:

2775 (i) the analysis required in Subsection (2)(a) was completed; and

2776 (ii) based on the analysis, the proposed purchase, lease, rental, or master contract of
2777 services, products, or supplies is practical, efficient, and economically beneficial to the state
2778 and the executive branch agency or subscriber of services.

2779 (3) In approving an acquisition described in Subsections (1) and (2), the chief
2780 information officer shall:

2781 (a) establish by administrative rule, in accordance with Section 63F-1-206, standards
2782 under which an agency must obtain approval from the chief information officer before
2783 acquiring the items listed in Subsections (1) and (2);

2784 (b) for those acquisitions requiring approval, determine whether the acquisition is in
2785 compliance with:

2786 (i) the executive branch strategic plan;

- 2787 (ii) the applicable agency information technology plan;
- 2788 (iii) the budget for the executive branch agency or department as adopted by the
2789 Legislature; and
- 2790 (iv) Title 63G, Chapter 6a, Utah Procurement Code; and
- 2791 (c) in accordance with Section 63F-1-207, require coordination of acquisitions between
2792 two or more executive branch agencies if it is in the best interests of the state.
- 2793 (4) (a) Each executive branch agency shall provide the chief information officer with
2794 complete access to all information technology records, documents, and reports:
- 2795 (i) at the request of the chief information officer; and
- 2796 (ii) related to the executive branch agency's acquisition of any item listed in Subsection
2797 (1).
- 2798 (b) Beginning July 1, 2006 and in accordance with administrative rules established by
2799 the department under Section 63F-1-206, no new technology projects may be initiated by an
2800 executive branch agency or the department unless the technology project is described in a
2801 formal project plan and the business case analysis has been approved by the chief information
2802 officer and agency head. The project plan and business case analysis required by this
2803 Subsection (4) shall be in the form required by the chief information officer, and shall include:
- 2804 (i) a statement of work to be done and existing work to be modified or displaced;
- 2805 (ii) total cost of system development and conversion effort, including system analysis
2806 and programming costs, establishment of master files, testing, documentation, special
2807 equipment cost and all other costs, including overhead;
- 2808 (iii) savings or added operating costs that will result after conversion;
- 2809 (iv) other advantages or reasons that justify the work;
- 2810 (v) source of funding of the work, including ongoing costs;
- 2811 (vi) consistency with budget submissions and planning components of budgets; and
- 2812 (vii) whether the work is within the scope of projects or initiatives envisioned when the
2813 current fiscal year budget was approved.
- 2814 (5) (a) The chief information officer and the Division of Purchasing and General
2815 Services shall work cooperatively to establish procedures under which the chief information
2816 officer shall monitor and approve acquisitions as provided in this section.
- 2817 (b) The procedures established under this section shall include at least the written

2818 certification required by Subsection 63G-6a-303(1)(e).

2819 Section 39. Section 63G-2-305 is amended to read:

2820 **63G-2-305. Protected records.**

2821 The following records are protected if properly classified by a governmental entity:

2822 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret
2823 has provided the governmental entity with the information specified in Section 63G-2-309;

2824 (2) commercial information or nonindividual financial information obtained from a
2825 person if:

2826 (a) disclosure of the information could reasonably be expected to result in unfair
2827 competitive injury to the person submitting the information or would impair the ability of the
2828 governmental entity to obtain necessary information in the future;

2829 (b) the person submitting the information has a greater interest in prohibiting access
2830 than the public in obtaining access; and

2831 (c) the person submitting the information has provided the governmental entity with
2832 the information specified in Section 63G-2-309;

2833 (3) commercial or financial information acquired or prepared by a governmental entity
2834 to the extent that disclosure would lead to financial speculations in currencies, securities, or
2835 commodities that will interfere with a planned transaction by the governmental entity or cause
2836 substantial financial injury to the governmental entity or state economy;

2837 (4) records, the disclosure of which could cause commercial injury to, or confer a
2838 competitive advantage upon a potential or actual competitor of, a commercial project entity as
2839 defined in Subsection 11-13-103(4);

2840 (5) test questions and answers to be used in future license, certification, registration,
2841 employment, or academic examinations;

2842 (6) records, the disclosure of which would impair governmental procurement
2843 proceedings or give an unfair advantage to any person proposing to enter into a contract or
2844 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this
2845 Subsection (6) does not restrict the right of a person to have access to, after the contract or
2846 grant has been awarded and signed by all parties, a bid, proposal, application, or other
2847 information submitted to or by a governmental entity in response to:

2848 (a) an invitation for bids;

- 2849 (b) a request for proposals;
- 2850 (c) a request for quotes;
- 2851 (d) a grant; or
- 2852 (e) other similar document;
- 2853 (7) information submitted to or by a governmental entity in response to a request for
- 2854 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict
- 2855 the right of a person to have access to the information, after:
 - 2856 (a) a contract directly relating to the subject of the request for information has been
 - 2857 awarded and signed by all parties; or
 - 2858 (b) (i) a final determination is made not to enter into a contract that relates to the
 - 2859 subject of the request for information; and
 - 2860 (ii) at least two years have passed after the day on which the request for information is
 - 2861 issued;
 - 2862 (8) records that would identify real property or the appraisal or estimated value of real
 - 2863 or personal property, including intellectual property, under consideration for public acquisition
 - 2864 before any rights to the property are acquired unless:
 - 2865 (a) public interest in obtaining access to the information is greater than or equal to the
 - 2866 governmental entity's need to acquire the property on the best terms possible;
 - 2867 (b) the information has already been disclosed to persons not employed by or under a
 - 2868 duty of confidentiality to the entity;
 - 2869 (c) in the case of records that would identify property, potential sellers of the described
 - 2870 property have already learned of the governmental entity's plans to acquire the property;
 - 2871 (d) in the case of records that would identify the appraisal or estimated value of
 - 2872 property, the potential sellers have already learned of the governmental entity's estimated value
 - 2873 of the property; or
 - 2874 (e) the property under consideration for public acquisition is a single family residence
 - 2875 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
 - 2876 the property as required under Section [78B-6-505](#);
 - 2877 (9) records prepared in contemplation of sale, exchange, lease, rental, or other
 - 2878 compensated transaction of real or personal property including intellectual property, which, if
 - 2879 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value

2880 of the subject property, unless:

2881 (a) the public interest in access is greater than or equal to the interests in restricting
2882 access, including the governmental entity's interest in maximizing the financial benefit of the
2883 transaction; or

2884 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
2885 the value of the subject property have already been disclosed to persons not employed by or
2886 under a duty of confidentiality to the entity;

2887 (10) records created or maintained for civil, criminal, or administrative enforcement
2888 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
2889 release of the records:

2890 (a) reasonably could be expected to interfere with investigations undertaken for
2891 enforcement, discipline, licensing, certification, or registration purposes;

2892 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
2893 proceedings;

2894 (c) would create a danger of depriving a person of a right to a fair trial or impartial
2895 hearing;

2896 (d) reasonably could be expected to disclose the identity of a source who is not
2897 generally known outside of government and, in the case of a record compiled in the course of
2898 an investigation, disclose information furnished by a source not generally known outside of
2899 government if disclosure would compromise the source; or

2900 (e) reasonably could be expected to disclose investigative or audit techniques,
2901 procedures, policies, or orders not generally known outside of government if disclosure would
2902 interfere with enforcement or audit efforts;

2903 (11) records the disclosure of which would jeopardize the life or safety of an
2904 individual;

2905 (12) records the disclosure of which would jeopardize the security of governmental
2906 property, governmental programs, or governmental recordkeeping systems from damage, theft,
2907 or other appropriation or use contrary to law or public policy;

2908 (13) records that, if disclosed, would jeopardize the security or safety of a correctional
2909 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere
2910 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

2911 (14) records that, if disclosed, would reveal recommendations made to the Board of
2912 Pardons and Parole by an employee of or contractor for the Department of Corrections, the
2913 Board of Pardons and Parole, or the Department of Human Services that are based on the
2914 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's
2915 jurisdiction;

2916 (15) records and audit workpapers that identify audit, collection, and operational
2917 procedures and methods used by the State Tax Commission, if disclosure would interfere with
2918 audits or collections;

2919 (16) records of a governmental audit agency relating to an ongoing or planned audit
2920 until the final audit is released;

2921 (17) records that are subject to the attorney client privilege;

2922 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,
2923 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,
2924 quasi-judicial, or administrative proceeding;

2925 (19) (a) (i) personal files of a state legislator, including personal correspondence to or
2926 from a member of the Legislature; and

2927 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
2928 legislative action or policy may not be classified as protected under this section; and

2929 (b) (i) an internal communication that is part of the deliberative process in connection
2930 with the preparation of legislation between:

2931 (A) members of a legislative body;

2932 (B) a member of a legislative body and a member of the legislative body's staff; or

2933 (C) members of a legislative body's staff; and

2934 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
2935 legislative action or policy may not be classified as protected under this section;

2936 (20) (a) records in the custody or control of the Office of Legislative Research and
2937 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
2938 legislation or contemplated course of action before the legislator has elected to support the
2939 legislation or course of action, or made the legislation or course of action public; and

2940 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
2941 Office of Legislative Research and General Counsel is a public document unless a legislator

2942 asks that the records requesting the legislation be maintained as protected records until such
2943 time as the legislator elects to make the legislation or course of action public;

2944 (21) research requests from legislators to the Office of Legislative Research and
2945 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared
2946 in response to these requests;

2947 (22) drafts, unless otherwise classified as public;

2948 (23) records concerning a governmental entity's strategy about:

2949 (a) collective bargaining; or

2950 (b) imminent or pending litigation;

2951 (24) records of investigations of loss occurrences and analyses of loss occurrences that
2952 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
2953 Uninsured Employers' Fund, or similar divisions in other governmental entities;

2954 (25) records, other than personnel evaluations, that contain a personal recommendation
2955 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
2956 personal privacy, or disclosure is not in the public interest;

2957 (26) records that reveal the location of historic, prehistoric, paleontological, or
2958 biological resources that if known would jeopardize the security of those resources or of
2959 valuable historic, scientific, educational, or cultural information;

2960 (27) records of independent state agencies if the disclosure of the records would
2961 conflict with the fiduciary obligations of the agency;

2962 (28) records of an institution within the state system of higher education defined in
2963 Section [53B-1-102](#) regarding tenure evaluations, appointments, applications for admissions,
2964 retention decisions, and promotions, which could be properly discussed in a meeting closed in
2965 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
2966 the final decisions about tenure, appointments, retention, promotions, or those students
2967 admitted, may not be classified as protected under this section;

2968 (29) records of the governor's office, including budget recommendations, legislative
2969 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
2970 policies or contemplated courses of action before the governor has implemented or rejected
2971 those policies or courses of action or made them public;

2972 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,

2973 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
2974 recommendations in these areas;

2975 (31) records provided by the United States or by a government entity outside the state
2976 that are given to the governmental entity with a requirement that they be managed as protected
2977 records if the providing entity certifies that the record would not be subject to public disclosure
2978 if retained by it;

2979 (32) transcripts, minutes, or reports of the closed portion of a meeting of a public body
2980 except as provided in Section 52-4-206;

2981 (33) records that would reveal the contents of settlement negotiations but not including
2982 final settlements or empirical data to the extent that they are not otherwise exempt from
2983 disclosure;

2984 (34) memoranda prepared by staff and used in the decision-making process by an
2985 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
2986 other body charged by law with performing a quasi-judicial function;

2987 (35) records that would reveal negotiations regarding assistance or incentives offered
2988 by or requested from a governmental entity for the purpose of encouraging a person to expand
2989 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
2990 person or place the governmental entity at a competitive disadvantage, but this section may not
2991 be used to restrict access to a record evidencing a final contract;

2992 (36) materials to which access must be limited for purposes of securing or maintaining
2993 the governmental entity's proprietary protection of intellectual property rights including patents,
2994 copyrights, and trade secrets;

2995 (37) the name of a donor or a prospective donor to a governmental entity, including an
2996 institution within the state system of higher education defined in Section 53B-1-102, and other
2997 information concerning the donation that could reasonably be expected to reveal the identity of
2998 the donor, provided that:

2999 (a) the donor requests anonymity in writing;

3000 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
3001 classified protected by the governmental entity under this Subsection (37); and

3002 (c) except for an institution within the state system of higher education defined in
3003 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged

3004 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority
3005 over the donor, a member of the donor's immediate family, or any entity owned or controlled
3006 by the donor or the donor's immediate family;

3007 (38) accident reports, except as provided in Sections [41-6a-404](#), [41-12a-202](#), and
3008 [73-18-13](#);

3009 (39) a notification of workers' compensation insurance coverage described in Section
3010 [34A-2-205](#);

3011 (40) (a) the following records of an institution within the state system of higher
3012 education defined in Section [53B-1-102](#), which have been developed, discovered, disclosed to,
3013 or received by or on behalf of faculty, staff, employees, or students of the institution:

3014 (i) unpublished lecture notes;

3015 (ii) unpublished notes, data, and information:

3016 (A) relating to research; and

3017 (B) of:

3018 (I) the institution within the state system of higher education defined in Section
3019 [53B-1-102](#); or

3020 (II) a sponsor of sponsored research;

3021 (iii) unpublished manuscripts;

3022 (iv) creative works in process;

3023 (v) scholarly correspondence; and

3024 (vi) confidential information contained in research proposals;

3025 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
3026 information required pursuant to Subsection [53B-16-302\(2\)\(a\)](#) or (b); and

3027 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;

3028 (41) (a) records in the custody or control of the Office of Legislative Auditor General
3029 that would reveal the name of a particular legislator who requests a legislative audit prior to the
3030 date that audit is completed and made public; and

3031 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
3032 Office of the Legislative Auditor General is a public document unless the legislator asks that
3033 the records in the custody or control of the Office of Legislative Auditor General that would
3034 reveal the name of a particular legislator who requests a legislative audit be maintained as

3035 protected records until the audit is completed and made public;

3036 (42) records that provide detail as to the location of an explosive, including a map or
3037 other document that indicates the location of:

3038 (a) a production facility; or
3039 (b) a magazine;

3040 (43) information:

3041 (a) contained in the statewide database of the Division of Aging and Adult Services
3042 created by Section [62A-3-311.1](#); or
3043 (b) received or maintained in relation to the Identity Theft Reporting Information
3044 System (IRIS) established under Section [67-5-22](#);

3045 (44) information contained in the Management Information System and Licensing
3046 Information System described in Title 62A, Chapter 4a, Child and Family Services;

3047 (45) information regarding National Guard operations or activities in support of the
3048 National Guard's federal mission;

3049 (46) records provided by any pawn or secondhand business to a law enforcement
3050 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and
3051 Secondhand Merchandise Transaction Information Act;

3052 (47) information regarding food security, risk, and vulnerability assessments performed
3053 by the Department of Agriculture and Food;

3054 (48) except to the extent that the record is exempt from this chapter pursuant to Section
3055 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or
3056 prepared or maintained by the Division of Emergency Management, and the disclosure of
3057 which would jeopardize:

3058 (a) the safety of the general public; or
3059 (b) the security of:

3060 (i) governmental property;
3061 (ii) governmental programs; or
3062 (iii) the property of a private person who provides the Division of Emergency
3063 Management information;

3064 (49) records of the Department of Agriculture and Food that provides for the
3065 identification, tracing, or control of livestock diseases, including any program established under

3066 Title 4, Chapter 24, Utah Livestock Brand and Anti-theft Act or Title 4, Chapter 31, Control of
3067 Animal Disease;

3068 (50) as provided in Section [26-39-501](#):

3069 (a) information or records held by the Department of Health related to a complaint
3070 regarding a child care program or residential child care which the department is unable to
3071 substantiate; and

3072 (b) information or records related to a complaint received by the Department of Health
3073 from an anonymous complainant regarding a child care program or residential child care;

3074 (51) unless otherwise classified as public under Section [63G-2-301](#) and except as
3075 provided under Section [41-1a-116](#), an individual's home address, home telephone number, or
3076 personal mobile phone number, if:

3077 (a) the individual is required to provide the information in order to comply with a law,
3078 ordinance, rule, or order of a government entity; and

3079 (b) the subject of the record has a reasonable expectation that this information will be
3080 kept confidential due to:

3081 (i) the nature of the law, ordinance, rule, or order; and

3082 (ii) the individual complying with the law, ordinance, rule, or order;

3083 (52) the name, home address, work addresses, and telephone numbers of an individual
3084 that is engaged in, or that provides goods or services for, medical or scientific research that is:

3085 (a) conducted within the state system of higher education, as defined in Section
3086 [53B-1-102](#); and

3087 (b) conducted using animals;

3088 (53) an initial proposal under Title [~~63M~~] [63N](#), Chapter [~~1~~] [13](#), Part [~~26~~] [2](#),

3089 Government Procurement Private Proposal Program, to the extent not made public by rules
3090 made under that chapter;

3091 (54) in accordance with Section [78A-12-203](#), any record of the Judicial Performance
3092 Evaluation Commission concerning an individual commissioner's vote on whether or not to
3093 recommend that the voters retain a judge;

3094 (55) information collected and a report prepared by the Judicial Performance
3095 Evaluation Commission concerning a judge, unless Section [20A-7-702](#) or Title 78A, Chapter
3096 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,

3097 the information or report;

3098 (56) records contained in the Management Information System created in Section

3099 [62A-4a-1003](#);

3100 (57) records provided or received by the Public Lands Policy Coordinating Office in

3101 furtherance of any contract or other agreement made in accordance with Section [63J-4-603](#);

3102 (58) information requested by and provided to the Utah State 911 Committee under

3103 Section [63H-7-303](#);

3104 (59) in accordance with Section [73-10-33](#):

3105 (a) a management plan for a water conveyance facility in the possession of the Division
3106 of Water Resources or the Board of Water Resources; or

3107 (b) an outline of an emergency response plan in possession of the state or a county or
3108 municipality;

3109 (60) the following records in the custody or control of the Office of Inspector General
3110 of Medicaid Services, created in Section [63A-13-201](#):

3111 (a) records that would disclose information relating to allegations of personal
3112 misconduct, gross mismanagement, or illegal activity of a person if the information or
3113 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services
3114 through other documents or evidence, and the records relating to the allegation are not relied
3115 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation
3116 report or final audit report;

3117 (b) records and audit workpapers to the extent they would disclose the identity of a
3118 person who, during the course of an investigation or audit, communicated the existence of any
3119 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or
3120 regulation adopted under the laws of this state, a political subdivision of the state, or any
3121 recognized entity of the United States, if the information was disclosed on the condition that
3122 the identity of the person be protected;

3123 (c) before the time that an investigation or audit is completed and the final
3124 investigation or final audit report is released, records or drafts circulated to a person who is not
3125 an employee or head of a governmental entity for the person's response or information;

3126 (d) records that would disclose an outline or part of any investigation, audit survey
3127 plan, or audit program; or

3128 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
3129 investigation or audit;

3130 (61) records that reveal methods used by the Office of Inspector General of Medicaid
3131 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or
3132 abuse;

3133 (62) information provided to the Department of Health or the Division of Occupational
3134 and Professional Licensing under Subsection 58-68-304(3) or (4);

3135 (63) a record described in Section 63G-12-210; and

3136 (64) captured plate data that is obtained through an automatic license plate reader
3137 system used by a governmental entity as authorized in Section 41-6a-2003.

3138 Section 40. Section 63G-6a-303 is amended to read:

3139 **63G-6a-303. Duties and authority of chief procurement officer.**

3140 (1) Except as otherwise specifically provided in this chapter, the chief procurement
3141 officer serves as the central procurement officer of the state and shall:

3142 (a) adopt office policies governing the internal functions of the division;

3143 (b) procure or supervise each procurement over which the chief procurement officer
3144 has authority;

3145 (c) establish and maintain programs for the inspection, testing, and acceptance of each
3146 procurement item over which the chief procurement officer has authority;

3147 (d) prepare statistical data concerning each procurement and procurement usage of a
3148 state procurement unit;

3149 (e) ensure that:

3150 (i) before approving a procurement not covered by an existing statewide contract for
3151 information technology or telecommunications supplies or services, the chief information
3152 officer and the agency have stated in writing to the division that the needs analysis required in
3153 Section 63F-1-205 was completed, unless the procurement is approved in accordance with
3154 Title [63M] 63N, Chapter [†] 13, Part [26] 2, Government Procurement Private Proposal
3155 Program; and

3156 (ii) the oversight authority required by Subsection (5)(a) is not delegated outside the
3157 division;

3158 (f) provide training to procurement units and to persons who do business with

3159 procurement units;

3160 (g) if the chief procurement officer determines that a procurement over which the chief
3161 procurement officer has authority is out of compliance with this chapter or board rules:

3162 (i) correct or amend the procurement to bring it into compliance; or

3163 (ii) cancel the procurement, if:

3164 (A) it is not feasible to bring the procurement into compliance; or

3165 (B) the chief procurement officer determines that it is in the best interest of the state to
3166 cancel the procurement; and

3167 (h) if the chief procurement officer determines that a contract over which the chief
3168 procurement officer has authority is out of compliance with this chapter or board rules, correct
3169 or amend the contract to bring it into compliance or cancel the contract:

3170 (i) if the chief procurement officer determines that correcting, amending, or canceling
3171 the contract is in the best interest of the state; and

3172 (ii) after consultation with the attorney general's office.

3173 (2) The chief procurement officer may:

3174 (a) correct, amend, or cancel a procurement as provided in Subsection (1)(g) at any
3175 stage of the procurement process; and

3176 (b) correct, amend, or cancel a contract as provided in Subsection (1)(h) at any time
3177 during the term of the contract.

3178 Section 41. Section **63G-6a-304** is amended to read:

3179 **63G-6a-304. Delegation of authority.**

3180 (1) In accordance with rules made by the board, the chief procurement officer may
3181 delegate authority to designees or to any department, agency, or official.

3182 (2) For a procurement under Title [~~63M~~] 63N, Chapter [~~1~~] 13, Part [~~26~~] 2, Government
3183 Procurement Private Proposal Program, any delegation by the chief procurement officer under
3184 this section shall be made to the Governor's Office of Economic Development.

3185 Section 42. Section **63G-6a-305** is amended to read:

3186 **63G-6a-305. Duty of chief procurement officer in maintaining specifications.**

3187 (1) The chief procurement officer may prepare, issue, revise, maintain, and monitor the
3188 use of specifications for each procurement over which the chief procurement officer has
3189 authority.

3190 (2) The chief procurement officer shall obtain expert advice and assistance from
3191 personnel of procurement units in the development of specifications and may delegate in
3192 writing to a procurement unit the authority to prepare and utilize its own specifications.

3193 (3) For a procurement under Title ~~[63M]~~ 63N, Chapter ~~[†]~~ 13, Part ~~[26]~~ 2, Government
3194 Procurement Private Proposal Program, any delegation by the chief procurement officer under
3195 this section shall be made to the Governor's Office of Economic Development.

3196 Section 43. Section **63G-6a-711** is amended to read:

3197 **63G-6a-711. Procurement for submitted proposal.**

3198 (1) As used in this section:

3199 (a) "Committee" is as defined in Section ~~[63M-1-2602]~~ 63N-13-202.

3200 (b) "Initial proposal" is a proposal submitted by a private entity under Section
3201 ~~[63M-1-2605]~~ 63N-13-205.

3202 (2) After receipt by the chief procurement officer of a copy of an initial proposal from
3203 the committee in accordance with Subsection ~~[63M-1-2606]~~ 63N-13-206(5), including any
3204 comment, suggestion, or modification to the initial proposal, the chief procurement officer
3205 shall initiate a standard procurement process in compliance with this chapter.

3206 (3) The chief procurement officer or designee shall:

3207 (a) review each detailed proposal received in accordance with Title ~~[63M]~~ 63N,
3208 Chapter ~~[†]~~ 13, Part ~~[26]~~ 2, Government Procurement Private Proposal Program; and

3209 (b) submit all detailed proposals that meet the guidelines established under Subsection
3210 ~~[63M-1-2608]~~ 63N-13-208(1) to the committee for review under Section ~~[63M-1-2609]~~
3211 63N-13-209.

3212 (4) For purposes of this chapter, the Governor's Office of Economic Development is
3213 considered a procurement unit with independent procurement authority for a procurement
3214 under Title ~~[63M]~~ 63N, Chapter ~~[†]~~ 13, Part ~~[26]~~ 2, Government Procurement Private Proposal
3215 Program.

3216 Section 44. Section **63G-19-101**, which is renumbered from Section 63M-1-1001 is
3217 renumbered and amended to read:

3218 **CHAPTER 19. BIOTECHNOLOGY PROVISIONS**

3219 **Part 1. Biotechnology Provisions**

3220 ~~[63M-1-1001]~~. **63G-19-101. Title -- Definitions.**

3221 (1) This chapter is known as "Biotechnology Provisions."

3222 (2) As used in this part, "biotechnology" is:

3223 ~~[(1)]~~ (a) the modification of living organisms by recombinant DNA techniques; and

3224 ~~[(2)]~~ (b) a means to accomplish, through genetic engineering, the same kinds of

3225 modifications accomplished through traditional genetic techniques such as crossbreeding.

3226 Section 45. Section **63G-19-102**, which is renumbered from Section 63M-1-1002 is

3227 renumbered and amended to read:

3228 ~~[63M-1-1002].~~ **63G-19-102. Confidential information.**

3229 (1) A state agency having access under federal law to biotechnology trade secrets and

3230 related confidential information shall manage the trade secrets and related confidential records

3231 as protected records under Title 63G, Chapter 2, Government Records Access and

3232 Management Act.

3233 (2) The records described in this section may be disclosed under the balancing

3234 provisions of Title 63G, Chapter 2, Government Records Access and Management Act, when a

3235 determination is made that disclosure is essential for the protection of the public's health or

3236 environment.

3237 Section 46. Section **63G-19-103**, which is renumbered from Section 63M-1-1003 is

3238 renumbered and amended to read:

3239 ~~[63M-1-1003].~~ **63G-19-103. Preemption of local regulation.**

3240 (1) A county, city, town, or other political subdivision may not regulate the

3241 technological processes relating to the development and use of biotechnologically created

3242 materials and organisms.

3243 (2) This preemption does not affect the powers of a county, city, town, or other

3244 political subdivision, including the power to regulate land use, business, industry, construction,

3245 and public utilities, to protect the public health or environment, or to provide fire protection

3246 and other public safety services.

3247 Section 47. Section **63I-1-263** is amended to read:

3248 **63I-1-263. Repeal dates, Titles 63A to 63N.**

3249 (1) Section **63A-4-204**, authorizing the Risk Management Fund to provide coverage to

3250 any public school district which chooses to participate, is repealed July 1, 2016.

3251 (2) Subsection **63A-5-104(4)(h)** is repealed on July 1, 2024.

3252 (3) Section [63A-5-603](#), State Facility Energy Efficiency Fund, is repealed July 1, 2016.

3253 (4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
3254 1, 2018.

3255 (5) Title 63C, Chapter 14, Federal Funds Commission, is repealed July 1, 2018.

3256 (6) Title 63C, Chapter 15, Prison Relocation Commission, is repealed July 1, 2017.

3257 (7) Subsection [63G-6a-1402](#)(7) authorizing certain transportation agencies to award a
3258 contract for a design-build transportation project in certain circumstances, is repealed July 1,
3259 2015.

3260 (8) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
3261 2020.

3262 (9) The Resource Development Coordinating Committee, created in Section
3263 [63J-4-501](#), is repealed July 1, 2015.

3264 [~~15~~] (10) The Crime Victim Reparations and Assistance Board, created in Section
3265 [63M-7-504](#), is repealed July 1, 2017.

3266 [~~16~~] (11) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,
3267 2017.

3268 [~~10~~] (12) Title [~~63M~~] [63N](#), Chapter [~~1~~] [2](#), Part [~~4~~] [2](#), Enterprise Zone Act, is repealed
3269 July 1, 2018.

3270 [~~11~~] (13) (a) Title [~~63M~~] [63N](#), Chapter [~~1~~] [2](#), Part [~~11~~] [4](#), Recycling Market
3271 Development Zone Act, is repealed January 1, 2021.

3272 (b) Subject to Subsection [~~11~~] (13)(c), Sections [59-7-610](#) and [59-10-1007](#) regarding
3273 tax credits for certain persons in recycling market development zones, are repealed for taxable
3274 years beginning on or after January 1, 2021.

3275 (c) A person may not claim a tax credit under Section [59-7-610](#) or [59-10-1007](#):

3276 (i) for the purchase price of machinery or equipment described in Section [59-7-610](#) or
3277 [59-10-1007](#), if the machinery or equipment is purchased on or after January 1, 2021; or

3278 (ii) for an expenditure described in Subsection [59-7-610](#)(1)(b) or [59-10-1007](#)(1)(b), if
3279 the expenditure is made on or after January 1, 2021.

3280 (d) Notwithstanding Subsections [~~11~~] (13)(b) and (c), a person may carry forward a
3281 tax credit in accordance with Section [59-7-610](#) or [59-10-1007](#) if:

3282 (i) the person is entitled to a tax credit under Section [59-7-610](#) or [59-10-1007](#); and

3283 (ii) (A) for the purchase price of machinery or equipment described in Section
3284 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31,
3285 2020; or

3286 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the
3287 expenditure is made on or before December 31, 2020.

3288 ~~[(12)] (14) Section [63M-1-3412] 63N-2-512 is repealed on July 1, 2021.~~

3289 ~~[(13) (a) Section 63M-1-2507, Health Care Compact is repealed on July 1, 2014.]~~

3290 ~~[(b) (i) The Legislature shall, before reauthorizing the Health Care Compact:]~~

3291 ~~[(A) direct the Health System Reform Task Force to evaluate the issues listed in~~
3292 ~~Subsection (13)(b)(ii), and by January 1, 2013, develop and recommend criteria for the~~
3293 ~~Legislature to use to negotiate the terms of the Health Care Compact; and]~~

3294 ~~[(B) prior to July 1, 2014, seek amendments to the Health Care Compact among the~~
3295 ~~member states that the Legislature determines are appropriate after considering the~~
3296 ~~recommendations of the Health System Reform Task Force.]~~

3297 ~~[(ii) The Health System Reform Task Force shall evaluate and develop criteria for the~~
3298 ~~Legislature regarding:]~~

3299 ~~[(A) the impact of the Supreme Court ruling on the Affordable Care Act;]~~

3300 ~~[(B) whether Utah is likely to be required to implement any part of the Affordable Care~~
3301 ~~Act prior to negotiating the compact with the federal government, such as Medicaid expansion~~
3302 ~~in 2014;]~~

3303 ~~[(C) whether the compact's current funding formula, based on adjusted 2010 state~~
3304 ~~expenditures, is the best formula for Utah and other state compact members to use for~~
3305 ~~establishing the block grants from the federal government;]~~

3306 ~~[(D) whether the compact's calculation of current year inflation adjustment factor,~~
3307 ~~without consideration of the regional medical inflation rate in the current year, is adequate to~~
3308 ~~protect the state from increased costs associated with administering a state based Medicaid and~~
3309 ~~a state based Medicare program;]~~

3310 ~~[(E) whether the state has the flexibility it needs under the compact to implement and~~
3311 ~~fund state based initiatives, or whether the compact requires uniformity across member states~~
3312 ~~that does not benefit Utah;]~~

3313 ~~[(F) whether the state has the option under the compact to refuse to take over the~~

3314 federal Medicare program;]

3315 [~~(G) whether a state based Medicare program would provide better benefits to the~~
3316 elderly and disabled citizens of the state than a federally run Medicare program;]

3317 [~~(H) whether the state has the infrastructure necessary to implement and administer a~~
3318 better state based Medicare program;]

3319 [~~(I) whether the compact appropriately delegates policy decisions between the~~
3320 legislative and executive branches of government regarding the development and
3321 implementation of the compact with other states and the federal government; and]

3322 [~~(J) the impact on public health activities, including communicable disease~~
3323 surveillance and epidemiology.]

3324 [~~(14)~~ (15) (a) Title ~~[63M]~~ 63N, Chapter ~~[1]~~ 2, Part ~~[35]~~ 6, Utah Small Business Jobs
3325 Act, is repealed January 1, 2021.

3326 (b) Section 59-9-107 regarding tax credits against premium taxes is repealed for
3327 calendar years beginning on or after January 1, 2021.

3328 (c) Notwithstanding Subsection ~~[(14)]~~ (15)(b), an entity may carry forward a tax credit
3329 in accordance with Section 59-9-107 if:

3330 (i) the person is entitled to a tax credit under Section 59-9-107 on or before December
3331 31, 2020; and

3332 (ii) the qualified equity investment that is the basis of the tax credit is certified under
3333 Section ~~[63M-1-3503]~~ 63N-2-603 on or before December 31, 2023.

3334 Section 48. Section ~~63I-2-263~~ is amended to read:

3335 **63I-2-263. Repeal dates, Title 63A to Title 63N.**

3336 [~~(1) Section 63A-1-115 is repealed on July 1, 2014.~~]

3337 [~~(2)~~ (1) Section 63C-9-501.1 is repealed on July 1, 2015.

3338 [~~(3) Subsection 63J-1-218(3) is repealed on December 1, 2013.~~]

3339 [~~(4) Subsection 63J-1-218(4) is repealed on December 1, 2013.~~]

3340 [~~(5) Section 63M-1-207 is repealed on December 1, 2014.~~]

3341 [~~(6)~~ (2) Subsection ~~[63M-1-903]~~ 63N-3-103(1)(d) is repealed on July 1, 2015.

3342 [~~(7) Subsection 63M-1-1406(9) is repealed on January 1, 2015.~~]

3343 Section 49. Section ~~63I-4a-102~~ is amended to read:

3344 **63I-4a-102. Definitions.**

- 3345 (1) (a) "Activity" means to provide a good or service.
- 3346 (b) "Activity" includes to:
- 3347 (i) manufacture a good or service;
- 3348 (ii) process a good or service;
- 3349 (iii) sell a good or service;
- 3350 (iv) offer for sale a good or service;
- 3351 (v) rent a good or service;
- 3352 (vi) lease a good or service;
- 3353 (vii) deliver a good or service;
- 3354 (viii) distribute a good or service; or
- 3355 (ix) advertise a good or service.
- 3356 (2) (a) Except as provided in Subsection (2)(b), "agency" means:
- 3357 (i) the state; or
- 3358 (ii) an entity of the state including a department, office, division, authority,
- 3359 commission, or board.
- 3360 (b) "Agency" does not include:
- 3361 (i) the Legislature;
- 3362 (ii) an entity or agency of the Legislature;
- 3363 (iii) the state auditor;
- 3364 (iv) the state treasurer;
- 3365 (v) the Office of the Attorney General;
- 3366 (vi) the Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;
- 3367 (vii) the Utah Science Center Authority created in Title 63H, Chapter 3, Utah Science
- 3368 Center Authority;
- 3369 (viii) the Heber Valley Railroad Authority created in Title 63H, Chapter 4, Heber
- 3370 Valley Historic Railroad Authority;
- 3371 (ix) the Utah State Railroad Museum Authority created in Title 63H, Chapter 5, Utah
- 3372 State Railroad Museum Authority;
- 3373 (x) the Utah Housing Corporation created in Title 35A, Chapter 8, Part 7, Utah
- 3374 Housing Corporation Act;
- 3375 (xi) the Utah State Fair Corporation created in Title 63H, Chapter 6, Utah State Fair

- 3376 Corporation Act;
- 3377 (xii) the Workers' Compensation Fund created in Title 31A, Chapter 33, Workers'
- 3378 Compensation Fund;
- 3379 (xiii) the Utah State Retirement Office created in Title 49, Chapter 11, Utah State
- 3380 Retirement Systems Administration;
- 3381 (xiv) a charter school chartered by the State Charter School Board or a board of
- 3382 trustees of a higher education institution under Title 53A, Chapter 1a, Part 5, The Utah Charter
- 3383 Schools Act;
- 3384 (xv) the Utah Schools for the Deaf and the Blind created in Title 53A, Chapter 25b,
- 3385 Utah Schools for the Deaf and the Blind;
- 3386 (xvi) an institution of higher education as defined in Section [53B-3-102](#);
- 3387 (xvii) the School and Institutional Trust Lands Administration created in Title 53C,
- 3388 Chapter 1, Part 2, School and Institutional Trust Lands Administration;
- 3389 (xviii) the Utah Communications Authority created in Title 63H, Chapter 7, Utah
- 3390 Communications Authority Act; or
- 3391 (xix) the Utah Capital Investment Corporation created in Title ~~[63M]~~ [63N](#), Chapter ~~[H]~~
- 3392 [6](#), Part ~~[H2]~~ [3](#), ~~[Utah Venture Capital Enhancement Act]~~ Utah Capital Investment Corporation.
- 3393 (3) "Agency head" means the chief administrative officer of an agency.
- 3394 (4) "Board" means the Free Market Protection and Privatization Board created in
- 3395 Section [63I-4a-202](#).
- 3396 (5) "Commercial activity" means to engage in an activity that can be obtained in whole
- 3397 or in part from a private enterprise.
- 3398 (6) "Local entity" means:
- 3399 (a) a political subdivision of the state, including a:
- 3400 (i) county;
- 3401 (ii) city;
- 3402 (iii) town;
- 3403 (iv) local school district;
- 3404 (v) local district; or
- 3405 (vi) special service district;
- 3406 (b) an agency of an entity described in this Subsection (6), including a department,

3407 office, division, authority, commission, or board; or

3408 (c) an entity created by an interlocal cooperative agreement under Title 11, Chapter 13,
3409 Interlocal Cooperation Act, between two or more entities described in this Subsection (6).

3410 (7) "Private enterprise" means a person that engages in an activity for profit.

3411 (8) "Privatize" means that an activity engaged in by an agency is transferred so that a
3412 private enterprise engages in the activity, including a transfer by:

3413 (a) contract;

3414 (b) transfer of property; or

3415 (c) another arrangement.

3416 (9) "Special district" means:

3417 (a) a local district, as defined in Section 17B-1-102;

3418 (b) a special service district, as defined in Section 17D-1-102; or

3419 (c) a conservation district, as defined in Section 17D-3-102.

3420 Section 50. Section 63J-1-315 is amended to read:

3421 **63J-1-315. Medicaid Growth Reduction and Budget Stabilization Account**

3422 **--Transfers of Medicaid growth savings -- Base budget adjustments.**

3423 (1) As used in this section:

3424 (a) "Department" means the Department of Health created in Section 26-1-4.

3425 (b) "Division" means the Division of Health Care Financing created within the
3426 department under Section 26-18-2.1.

3427 (c) "General Fund revenue surplus" means a situation where actual General Fund
3428 revenues collected in a completed fiscal year exceed the estimated revenues for the General
3429 Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the
3430 Legislature.

3431 (d) "Medicaid growth savings" means the Medicaid growth target minus Medicaid
3432 program expenditures, if Medicaid program expenditures are less than the Medicaid growth
3433 target.

3434 (e) "Medicaid growth target" means Medicaid program expenditures for the previous
3435 year multiplied by 1.08.

3436 (f) "Medicaid program" is as defined in Section 26-18-2.

3437 (g) "Medicaid program expenditures" means total state revenue expended for the

3438 Medicaid program from the General Fund, including restricted accounts within the General
3439 Fund, during a fiscal year.

3440 (h) "Medicaid program expenditures for the previous year" means total state revenue
3441 expended for the Medicaid program from the General Fund, including restricted accounts
3442 within the General Fund, during the fiscal year immediately preceding a fiscal year for which
3443 Medicaid program expenditures are calculated.

3444 (i) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund
3445 balance in the General Fund is less than zero.

3446 (j) "State revenue" means revenue other than federal revenue.

3447 (k) "State revenue expended for the Medicaid program" includes money transferred or
3448 appropriated to the Medicaid Growth Reduction and Budget Stabilization Account only to the
3449 extent the money is appropriated for the Medicaid program by the Legislature.

3450 (2) There is created within the General Fund a restricted account to be known as the
3451 Medicaid Growth Reduction and Budget Stabilization Account.

3452 (3) (a) (i) Except as provided in Subsection (6), if, at the end of a fiscal year, there is a
3453 General Fund revenue surplus, the Division of Finance shall transfer an amount equal to
3454 Medicaid growth savings from the General Fund to the Medicaid Growth Reduction and
3455 Budget Stabilization Account.

3456 (ii) If the amount transferred is reduced to prevent an operating deficit, as provided in
3457 Subsection (6), the Legislature shall include, to the extent revenue is available, an amount
3458 equal to the reduction as an appropriation from the General Fund to the account in the base
3459 budget for the second fiscal year following the fiscal year for which the reduction was made.

3460 (b) If, at the end of a fiscal year, there is not a General Fund revenue surplus, the
3461 Legislature shall include, to the extent revenue is available, an amount equal to Medicaid
3462 growth savings as an appropriation from the General Fund to the account in the base budget for
3463 the second fiscal year following the fiscal year for which the reduction was made.

3464 (c) Subsections (3)(a) and (3)(b) apply only to the fiscal year in which the department
3465 implements the proposal developed under Section [26-18-405](#) to reduce the long-term growth in
3466 state expenditures for the Medicaid program, and to each fiscal year after that year.

3467 (4) The Division of Finance shall calculate the amount to be transferred under
3468 Subsection (3):

- 3469 (a) before transferring revenue from the General Fund revenue surplus to:
- 3470 (i) the General Fund Budget Reserve Account under Section 63J-1-312 and;
- 3471 (ii) the State Disaster Recovery Restricted Account under Section 63J-1-314;
- 3472 (b) before earmarking revenue from the General Fund revenue surplus to the Industrial
- 3473 Assistance Account under Section [63M-1-905] 63N-3-106; and
- 3474 (c) before making any other year-end contingency appropriations, year-end set-asides,
- 3475 or other year-end transfers required by law.
- 3476 (5) (a) If, at the close of any fiscal year, there appears to be insufficient money to pay
- 3477 additional debt service for any bonded debt authorized by the Legislature, the Division of
- 3478 Finance may hold back from any General Fund revenue surplus money sufficient to pay the
- 3479 additional debt service requirements resulting from issuance of bonded debt that was
- 3480 authorized by the Legislature.
- 3481 (b) The Division of Finance may not spend the hold back amount for debt service
- 3482 under Subsection (5)(a) unless and until it is appropriated by the Legislature.
- 3483 (c) If, after calculating the amount for transfer under Subsection (3), the remaining
- 3484 General Fund revenue surplus is insufficient to cover the hold back for debt service required by
- 3485 Subsection (5)(a), the Division of Finance shall reduce the transfer to the Medicaid Growth
- 3486 Reduction and Budget Stabilization Account by the amount necessary to cover the debt service
- 3487 hold back.
- 3488 (d) Notwithstanding Subsections (3) and (4), the Division of Finance shall hold back
- 3489 the General Fund balance for debt service authorized by this Subsection (5) before making any
- 3490 transfers to the Medicaid Growth Reduction and Budget Stabilization Account or any other
- 3491 designation or allocation of General Fund revenue surplus.
- 3492 (6) Notwithstanding Subsections (3) and (4), if, at the end of a fiscal year, the Division
- 3493 of Finance determines that an operating deficit exists and that holding back earmarks to the
- 3494 Industrial Assistance Account under Section [63M-1-905] 63N-3-106, transfers to the State
- 3495 Disaster Recovery Restricted Account under Section 63J-1-314, transfers to the General Fund
- 3496 Budget Reserve Account under Section 63J-1-312, or earmarks and transfers to more than one
- 3497 of those accounts, in that order, does not eliminate the operating deficit, the Division of
- 3498 Finance may reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization
- 3499 Account by the amount necessary to eliminate the operating deficit.

3500 (7) The Legislature may appropriate money from the Medicaid Growth Reduction and
3501 Budget Stabilization Account only:

3502 (a) if Medicaid program expenditures for the fiscal year for which the appropriation is
3503 made are estimated to be 108% or more of Medicaid program expenditures for the previous
3504 year; and

3505 (b) for the Medicaid program.

3506 (8) The Division of Finance shall deposit interest or other earnings derived from
3507 investment of Medicaid Growth Reduction and Budget Stabilization Account money into the
3508 General Fund.

3509 Section 51. Section **63J-1-602.4** is amended to read:

3510 **63J-1-602.4. List of nonlapsing funds and accounts -- Title 61 through Title 63N.**

3511 (1) Funds paid to the Division of Real Estate for the cost of a criminal background
3512 check for a mortgage loan license, as provided in Section [61-2c-202](#).

3513 (2) Funds paid to the Division of Real Estate for the cost of a criminal background
3514 check for principal broker, associate broker, and sales agent licenses, as provided in Section
3515 [61-2f-204](#).

3516 (3) Certain funds donated to the Department of Human Services, as provided in
3517 Section [62A-1-111](#).

3518 (4) Appropriations from the National Professional Men's Basketball Team Support of
3519 Women and Children Issues Restricted Account created in Section [62A-1-202](#).

3520 (5) Certain funds donated to the Division of Child and Family Services, as provided in
3521 Section [62A-4a-110](#).

3522 (6) Appropriations from the Choose Life Adoption Support Restricted Account created
3523 in Section [62A-4a-608](#).

3524 (7) Appropriations to the Division of Services for People with Disabilities, as provided
3525 in Section [62A-5-102](#).

3526 (8) A portion of the funds appropriated to the Utah Seismic Safety Commission, as
3527 provided in Section [63C-6-104](#).

3528 ~~[(+)]~~ (9) Funds appropriated or collected for publishing the Division of
3529 Administrative Rules' publications, as provided in Section [63G-3-402](#).

3530 ~~[(+)]~~ (10) The Immigration Act Restricted Account created in Section [63G-12-103](#).

3531 ~~[(12)]~~ (11) Money received by the military installation development authority, as
3532 provided in Section [63H-1-504](#).

3533 ~~[(13)]~~ (12) Appropriations to fund the Governor's Office of Economic Development's
3534 Enterprise Zone Act, as provided in Title ~~[63M]~~ [63N](#), Chapter ~~[1]~~ [2](#), Part ~~[4]~~ [2](#), Enterprise Zone
3535 Act.

3536 ~~[(14)]~~ (13) The Motion Picture Incentive Account created in Section ~~[63M-1-1803]~~
3537 [63N-8-103](#).

3538 ~~[(9)]~~ (14) Certain money payable for commission expenses of the Pete Suazo Utah
3539 Athletic Commission, as provided under Section ~~[63C-11-301]~~ [63N-10-301](#).

3540 Section 52. Section **63J-4-603** is amended to read:

3541 **63J-4-603. Powers and duties of coordinator and office.**

3542 (1) The coordinator and the office shall:

3543 (a) make a report to the Constitutional Defense Council created under Section
3544 [63C-4a-202](#) concerning R.S. 2477 rights and other public lands issues under Title 63C, Chapter
3545 4a, Constitutional and Federalism Defense Act;

3546 (b) provide staff assistance to the Constitutional Defense Council created under Section
3547 [63C-4a-202](#) for meetings of the council;

3548 (c) (i) prepare and submit a constitutional defense plan under Section [63C-4a-403](#); and

3549 (ii) execute any action assigned in a constitutional defense plan;

3550 (d) under the direction of the state planning coordinator, assist in fulfilling the state
3551 planning coordinator's duties outlined in Section [63J-4-401](#) as those duties relate to the
3552 development of public lands policies by:

3553 (i) developing cooperative contracts and agreements between the state, political
3554 subdivisions, and agencies of the federal government for involvement in the development of
3555 public lands policies;

3556 (ii) producing research, documents, maps, studies, analysis, or other information that
3557 supports the state's participation in the development of public lands policy;

3558 (iii) preparing comments to ensure that the positions of the state and political
3559 subdivisions are considered in the development of public lands policy;

3560 (iv) partnering with state agencies and political subdivisions in an effort to:

3561 (A) prepare coordinated public lands policies;

- 3562 (B) develop consistency reviews and responses to public lands policies;
- 3563 (C) develop management plans that relate to public lands policies; and
- 3564 (D) develop and maintain a statewide land use plan that is based on cooperation and in
3565 conjunction with political subdivisions; and
- 3566 (v) providing other information or services related to public lands policies as requested
3567 by the state planning coordinator;
- 3568 (e) facilitate and coordinate the exchange of information, comments, and
3569 recommendations on public lands policies between and among:
 - 3570 (i) state agencies;
 - 3571 (ii) political subdivisions;
 - 3572 (iii) the Office of Rural Development created under Section [~~63M-1-1602~~] 63N-4-102;
 - 3573 (iv) the Resource Development Coordinating Committee created under Section
3574 63J-4-501;
 - 3575 (v) School and Institutional Trust Lands Administration created under Section
3576 53C-1-201;
 - 3577 (vi) the committee created under Section 63F-1-508 to award grants to counties to
3578 inventory and map R.S. 2477 rights-of-way, associated structures, and other features; and
 - 3579 (vii) the Constitutional Defense Council created under Section 63C-4a-202;
- 3580 (f) perform the duties established in Title 9, Chapter 8, Part 3, Antiquities, and Title 9,
3581 Chapter 8, Part 4, Historic Sites;
- 3582 (g) consistent with other statutory duties, encourage agencies to responsibly preserve
3583 archaeological resources;
- 3584 (h) maintain information concerning grants made under Subsection (1)(j), if available;
- 3585 (i) report annually, or more often if necessary or requested, concerning the office's
3586 activities and expenditures to:
 - 3587 (i) the Constitutional Defense Council; and
 - 3588 (ii) the Legislature's Natural Resources, Agriculture, and Environment Interim
3589 Committee jointly with the Constitutional Defense Council;
- 3590 (j) make grants of up to 16% of the office's total annual appropriations from the
3591 Constitutional Defense Restricted Account to a county or statewide association of counties to
3592 be used by the county or association of counties for public lands matters if the coordinator,

3593 with the advice of the Constitutional Defense Council, determines that the action provides a
3594 state benefit;

3595 (k) provide staff services to the Snake Valley Aquifer Advisory Council created in
3596 Section 63C-12-103;

3597 (l) coordinate and direct the Snake Valley Aquifer Research Team created in Section
3598 63C-12-107; and

3599 (m) conduct the public lands transfer study and economic analysis required by Section
3600 63J-4-606.

3601 (2) The coordinator and office shall comply with Subsection 63C-4a-203(8) before
3602 submitting a comment to a federal agency, if the governor would be subject to Subsection
3603 63C-4a-203(8) if the governor were submitting the material.

3604 (3) The office may enter into a contract or other agreement with another state agency to
3605 provide information and services related to:

3606 (a) the duties authorized by Title 72, Chapter 3, Highway Jurisdiction and
3607 Classification Act;

3608 (b) legal actions concerning Title 72, Chapter 3, Highway Jurisdiction and
3609 Classification Act, or R.S. 2477 matters; or

3610 (c) any other matter within the office's responsibility.

3611 Section 53. Section 63J-7-102 is amended to read:

3612 **63J-7-102. Scope and applicability of chapter.**

3613 (1) Except as provided in Subsection (2), and except as otherwise provided by a statute
3614 superseding provisions of this chapter by explicit reference to this chapter, the provisions of
3615 this chapter apply to each agency and govern each grant received on or after May 5, 2008.

3616 (2) This chapter does not govern:

3617 (a) a grant deposited into a General Fund restricted account;

3618 (b) a grant deposited into a Trust and Agency Fund as defined in Section 51-5-4;

3619 (c) a grant deposited into an Enterprise Fund as defined in Section 51-5-4;

3620 (d) a grant made to the state without a restriction or other designated purpose that is
3621 deposited into the General Fund as free revenue;

3622 (e) a grant made to the state that is restricted only to "education" and that is deposited
3623 into the Education Fund or Uniform School Fund as free revenue;

- 3624 (f) in-kind donations;
- 3625 (g) a tax, fees, penalty, fine, surcharge, money judgment, or other money due the state
- 3626 when required by state law or application of state law;
- 3627 (h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax
- 3628 Contribution Act;
- 3629 (i) a grant received by an agency from another agency or political subdivision;
- 3630 (j) a grant to the Dairy Commission created in Title 4, Chapter 22, Dairy Promotion
- 3631 Act;
- 3632 (k) a grant to the Utah Science Center Authority created in Title 63H, Chapter 3, Utah
- 3633 Science Center Authority;
- 3634 (l) a grant to the Heber Valley Railroad Authority created in Title 63H, Chapter 4,
- 3635 Heber Valley Historic Railroad Authority;
- 3636 (m) a grant to the Utah State Railroad Museum Authority created in Title 63H, Chapter
- 3637 5, Utah State Railroad Museum Authority;
- 3638 (n) a grant to the Utah Housing Corporation created in Title 35A, Chapter 8, Part 7,
- 3639 Utah Housing Corporation Act;
- 3640 (o) a grant to the Utah State Fair Corporation created in Title 63H, Chapter 6, Utah
- 3641 State Fair Corporation Act;
- 3642 (p) a grant to the Workers' Compensation Fund created in Title 31A, Chapter 33,
- 3643 Workers' Compensation Fund;
- 3644 (q) a grant to the Utah State Retirement Office created in Title 49, Chapter 11, Utah
- 3645 State Retirement Systems Administration;
- 3646 (r) a grant to the School and Institutional Trust Lands Administration created in Title
- 3647 53C, Chapter 1, Part 2, School and Institutional Trust Lands Administration;
- 3648 (s) a grant to the Utah Communications Authority created in Title 63H, Chapter 7,
- 3649 Utah Communications Authority Act;
- 3650 (t) a grant to the Medical Education Program created in Section [53B-24-202](#);
- 3651 (u) a grant to the Utah Capital Investment Corporation created in Title ~~[63M]~~ [63N](#),
- 3652 Chapter ~~[†]~~ [6](#), Part ~~[†2]~~ [3](#), ~~[Utah Venture Capital Enhancement Act]~~ [Utah Capital Investment](#)
- 3653 [Corporation](#);
- 3654 (v) a grant to the Utah Charter School Finance Authority created in Section

3655 53A-20b-103;

3656 (w) a grant to the State Building Ownership Authority created in Section 63B-1-304;

3657 (x) a grant to the Utah Comprehensive Health Insurance Pool created in Section

3658 31A-29-104; or

3659 (y) a grant to the Military Installation Development Authority created in Section

3660 63H-1-201.

3661 (3) An agency need not seek legislative review or approval of grants under Part 2,
3662 Grant Approval Requirements, if:

3663 (a) the governor has declared a state of emergency; and

3664 (b) the grant is donated to the agency to assist victims of the state of emergency under
3665 Subsection 53-2a-204(1).

3666 Section 54. Section 63M-2-101 is amended to read:

3667 **TITLE 63M. GOVERNOR'S PROGRAMS**

3668 **CHAPTER 2. UTAH SCIENCE TECHNOLOGY AND RESEARCH GOVERNING**

3669 **AUTHORITY ACT**

3670 **63M-2-101. Title.**

3671 (1) This title is known as "Governor's Programs."

3672 (2) This chapter is known as the "Utah Science Technology and Research Governing
3673 Authority Act."

3674 Section 55. Section 63N-1-101, which is renumbered from Section 63M-1-101 is
3675 renumbered and amended to read:

3676 **TITLE 63N. GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT**

3677 **CHAPTER 1. GOED GENERAL PROVISIONS**

3678 **Part 1. General Provisions**

3679 ~~[63M-1-101].~~ **63N-1-101. Title.**

3680 (1) This title is known as [~~"Governor's Programs."~~] the "Governor's Office of
3681 Economic Development."

3682 (2) This chapter is known as [~~the "Governor's Office of Economic Development."~~]
3683 "GOED General Provisions."

3684 Section 56. Section 63N-1-102, which is renumbered from Section 63M-1-102 is
3685 renumbered and amended to read:

3686 ~~[63M-1-102]~~. 63N-1-102. Definitions.

3687 As used in this [chapter] title:

3688 (1) "Board" means the Board of Business and Economic Development~~[-]~~ created in
3689 Section 63N-1-401.

3690 (2) "Council" means the Governor's Economic Development Coordinating Council
3691 created in Section 63N-1-501.

3692 ~~[(2) "Director"]~~ (3) "Executive director" means the executive director of the office.

3693 ~~[(3)]~~ (4) "Office" or "GOED" means the Governor's Office of Economic Development.

3694 Section 57. Section 63N-1-201, which is renumbered from Section 63M-1-201 is
3695 renumbered and amended to read:

3696 **Part 2. Creation of GOED**

3697 ~~[63M-1-201]~~. 63N-1-201. Creation of office -- Responsibilities.

3698 (1) There is created the Governor's Office of Economic Development.

3699 (2) The office ~~[shall]~~ is:

3700 (a) ~~[be]~~ responsible for economic development ~~[within]~~ and economic development
3701 planning in the state; and

3702 ~~[(b) perform economic development planning for the state;]~~

3703 (b) the industrial promotion authority of the state.

3704 (3) The office shall:

3705 ~~[(c)]~~ (a) administer and coordinate [all] state [or] and federal economic development
3706 grant programs [which are, or become available, for economic development];

3707 (b) promote and encourage the economic, commercial, financial, industrial,
3708 agricultural, and civic welfare of the state;

3709 (c) act to create, develop, attract, and retain business, industry, and commerce in the
3710 state;

3711 (d) act to enhance the state's economy;

3712 ~~[(d)]~~ (e) administer [any other] programs over which the office is given administrative
3713 supervision by the governor;

3714 ~~[(e)]~~ (f) submit an annual written report as described in Section [63M-1-206]

3715 63N-1-301; and

3716 ~~[(f)]~~ (g) perform [any] other duties as provided by the Legislature.

3717 (4) In order to perform its duties under this title, the office may:

3718 (a) enter into a contract or agreement with, or make a grant to, a public or private
3719 entity, including a municipality, if the contract or agreement is not in violation of state statute
3720 or other applicable law;

3721 (b) except as provided in Subsection (4)(c), receive and expend funds from a public or
3722 private source for any lawful purpose that is in the state's best interest; and

3723 ~~[(3) The office may]~~ (c) solicit and accept [contributions] a contribution of money,
3724 services, [and] or facilities from [any other source,] a public or private donor, but may not use
3725 the [money] contribution for publicizing the exclusive interest of the donor.

3726 ~~[(4)]~~ (5) Money received under Subsection [3)] (4)(c) shall be deposited in the
3727 General Fund as dedicated credits of the office.

3728 ~~[(5)(a) The office is recognized as an issuing authority as defined in Subsection~~
3729 ~~63M-1-3002(7), entitled to issue bonds from the Small Issue Bond Account created in~~
3730 ~~Subsection 63M-1-3006(1)(c) as a part of the state's private activity bond volume cap~~
3731 ~~authorized by the Internal Revenue Code of 1986 and computed under Section 146 of the~~
3732 ~~code.]~~

3733 ~~[(b) To promote and encourage the issuance of bonds from the Small Issue Bond~~
3734 ~~Account for manufacturing projects, the office may:]~~

3735 ~~[(i) develop campaigns and materials that inform qualified small manufacturing~~
3736 ~~businesses about the existence of the program and the application process;]~~

3737 ~~[(ii) assist small businesses in applying for and qualifying for these bonds; or]~~

3738 ~~[(iii) develop strategies to lower the cost to small businesses of applying for and~~
3739 ~~qualifying for these bonds, including making arrangements with financial advisors,~~
3740 ~~underwriters, bond counsel, and other professionals involved in the issuance process to provide~~
3741 ~~their services at a reduced rate when the division can provide them with a high volume of~~
3742 ~~applicants or issues.]~~

3743 (6) (a) The office shall obtain the advice of the board before implementing a change to
3744 a policy, priority, or objective under which the office operates.

3745 (b) Subsection (6)(a) does not apply to the routine administration by the office of
3746 money or services related to the assistance, retention, or recruitment of business, industry, or
3747 commerce in the state.

3748 Section 58. Section **63N-1-202**, which is renumbered from Section 63M-1-202 is
 3749 renumbered and amended to read:

3750 ~~[63M-1-202].~~ **63N-1-202. Executive director of office -- Appointment --**
 3751 **Removal -- Compensation.**

3752 (1) The office shall be administered, ~~[directed, controlled,]~~ organized, and managed by
 3753 ~~[a]~~ an executive director appointed by the governor.

3754 (2) The executive director serves at the pleasure of the governor.

3755 (3) The salary of the executive director shall be established by the governor within the
 3756 salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

3757 Section 59. Section **63N-1-203**, which is renumbered from Section 63M-1-203 is
 3758 renumbered and amended to read:

3759 ~~[63M-1-203].~~ **63N-1-203. Powers and duties of executive director.**

3760 (1) Unless otherwise expressly provided by statute, the executive director may organize
 3761 the office in any appropriate manner, including the appointment of deputy directors of the
 3762 office.

3763 (2) The executive director may consolidate personnel and service functions for
 3764 efficiency and economy in the office.

3765 ~~[(+)]~~ (3) The executive director, with the approval of the governor~~[-, may]~~:

3766 (a) may, by following the procedures and requirements of Title 63J, Chapter 5, Federal
 3767 Funds Procedures Act, seek federal grants, loans, or participation in federal programs;

3768 (b) may enter into a lawful ~~[contracts or agreements with other states, any]~~ contract or
 3769 agreement with another state, a chamber of commerce organization, [any] a service club, [and a
 3770 private entity pursuant to Section ~~63M-1-2610~~ or a private entity; and

3771 (c) shall annually prepare and submit to the governor a budget of the office's financial
 3772 requirements.

3773 ~~[(2) If any]~~ (4) With the governor's approval, if a federal program requires the
 3774 expenditure of state funds as a condition [to participation by] for the state [in any] to participate
 3775 in a fund, property, or service, [with the governor's approval, the director shall expend
 3776 whatever funds are necessary out of] the executive director may expend necessary funds from
 3777 money provided by the Legislature for the use of the office.

3778 Section 60. Section **63N-1-204**, which is renumbered from Section 63M-1-205 is

3779 renumbered and amended to read:

3780 ~~[63M-1-205].~~ 63N-1-204. **Executive director and the Public Service**

3781 **Commission.**

3782 (1) The executive director or the executive director's designee shall:

3783 (a) become generally informed of significant rate cases and policy proceedings before
3784 the Public Service Commission; and

3785 (b) monitor and study the potential economic development impact of these proceedings
3786 [~~before the Public Service Commission~~].

3787 (2) In the discretion of the executive director or the executive director's designee, the
3788 office may appear in [~~any~~] a proceeding before the Public Service Commission to testify,
3789 advise, or present argument regarding the economic development impact of [~~any~~] a matter that
3790 is the subject of the proceeding.

3791 Section 61. Section **63N-1-301**, which is renumbered from Section 63M-1-206 is
3792 renumbered and amended to read:

3793 **Part 3. GOED Annual Report**

3794 ~~[63M-1-206].~~ 63N-1-301. **Annual report -- Content -- Format.**

3795 (1) The office shall prepare and submit to the governor and the Legislature, by October
3796 1 of each year, an annual written report of the operations, activities, programs, and services of
3797 the office, including the divisions, sections, boards, commissions, councils, and committees
3798 established under this [~~chapter~~] title, for the preceding fiscal year.

3799 (2) For each operation, activity, program, or service provided by the office, the annual
3800 report shall include:

3801 (a) a description of the operation, activity, program, or service;

3802 (b) data selected and used by the office to measure progress, performance, and scope of
3803 the operation, activity, program, or service, including summary data;

3804 (c) budget data, including the amount and source of funding, expenses, and allocation
3805 of full-time employees for the operation, activity, program, or service;

3806 (d) historical data from previous years for comparison with data reported under
3807 Subsections (2)(b) and (c);

3808 (e) goals, challenges, and achievements related to the operation, activity, program, or
3809 service;

- 3810 (f) relevant federal and state statutory references and requirements;
- 3811 (g) contact information of officials knowledgeable and responsible for each operation,
- 3812 activity, program, or service; and
- 3813 (h) other information determined by the office that:
- 3814 (i) may be needed, useful, or of historical significance; or
- 3815 (ii) promotes accountability and transparency for each operation, activity, program, or
- 3816 service with the public and elected officials.

3817 (3) The annual report shall be designed to provide clear, accurate, and accessible
 3818 information to the public, the governor, and the Legislature.

3819 (4) The office shall:

- 3820 (a) submit the annual report in accordance with Section 68-3-14; and
- 3821 (b) make the annual report, and previous annual reports, accessible to the public by
- 3822 placing a link to the reports on the office's website.

3823 Section 62. Section 63N-1-401, which is renumbered from Section 63M-1-302 is
 3824 renumbered and amended to read:

Part 4. Board of Business and Economic Development

~~63M-1-302].~~ **63N-1-401. Board of Business and Economic Development --**
 3827 **Membership -- Expenses.**

3828 (1) (a) ~~[The board shall consist]~~ There is created within the office the Board of
 3829 Business and Economic Development, consisting of 15 members appointed by the governor to
 3830 four-year terms of office with the consent of the Senate.

3831 (b) Notwithstanding the requirements of Subsection (1)(a), the governor shall, at the
 3832 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
 3833 board members are staggered so that approximately half of the board is appointed every two
 3834 years.

3835 (c) The members may not serve more than two full consecutive terms except where the
 3836 governor determines that an additional term is in the best interest of the state.

3837 (2) In appointing members of the committee, the governor shall ensure that:

3838 ~~[(2) Not]~~ (a) no more than eight members of the board [may be] are from one political
 3839 party~~[-]; and~~

3840 ~~[(3) The members shall be representative of all areas of the state.]~~

3841 (b) members represent a variety of geographic areas and economic interests of the state.

3842 [~~(4)~~] (3) When a vacancy occurs in the membership for any reason, the replacement
3843 shall be appointed for the unexpired term.

3844 [~~(5)~~] (4) Eight members of the board constitute a quorum for conducting board
3845 business and exercising board power.

3846 [~~(6)~~] (5) The governor shall select one [~~of the board members as its~~] board member as
3847 the board's chair.

3848 [~~(7)~~] (6) A member may not receive compensation or benefits for the member's service,
3849 but may receive per diem and travel expenses in accordance with:

3850 (a) Section 63A-3-106;

3851 (b) Section 63A-3-107; and

3852 (c) rules made by the Division of Finance [~~pursuant to~~] under Sections 63A-3-106 and
3853 63A-3-107.

3854 Section 63. Section **63N-1-402**, which is renumbered from Section 63M-1-303 is
3855 renumbered and amended to read:

3856 [~~63M-1-303~~]. **63N-1-402. Board duties and powers.**

3857 (1) The board shall advise and assist the office to:

3858 (a) promote and encourage the economic, commercial, financial, industrial,
3859 agricultural, and civic welfare of the state;

3860 [~~(b) do all lawful acts for the development, attraction, and retention of businesses,~~
3861 ~~industries, and commerce within the state;~~]

3862 [~~(c)~~] (b) promote and encourage the [~~expansion and retention~~] development, attraction,
3863 expansion, and retention of businesses, industries, and commerce [~~located~~] in the state;

3864 [~~(d)~~] (c) support the efforts of local government and regional nonprofit economic
3865 development organizations to encourage expansion or retention of businesses, industries, and
3866 commerce [~~located~~] in the state;

3867 [~~(e) do other acts not specifically enumerated in this chapter, if the acts are for the~~
3868 ~~betterment of the economy of the state;~~]

3869 (d) act to enhance the state's economy;

3870 [~~(f)~~] (e) work in conjunction with companies and individuals located or doing business
3871 [~~within~~] in the state to secure favorable rates, fares, tolls, charges, and classification for

3872 transportation of persons or property by:

3873 (i) railroad;

3874 (ii) motor carrier; or

3875 (iii) other common carriers;

3876 ~~[(g)]~~ (f) recommend policies, priorities, and objectives to the office regarding the
3877 assistance, retention, or recruitment of business, industries, and commerce in the state;

3878 ~~[(h)]~~ (g) recommend how ~~[any money or program administered by the office or its~~
3879 ~~divisions]~~ the office should administer programs for the assistance, retention, or recruitment of
3880 businesses, industries, and commerce in the state ~~[shall be administered, so that the money or~~
3881 ~~program is equitably available]~~;

3882 (h) help ensure that economic-development programs are available to all areas of the
3883 state ~~[unless]~~ in accordance with federal ~~[or]~~ and state law ~~[requires or authorizes the~~
3884 ~~geographic location of a recipient of the money or program to be considered in the distribution~~
3885 ~~of the money or administration of the program]~~; and

3886 (i) maintain ethical and conflict of interest standards consistent with those imposed on
3887 a public officer under Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

3888 (2) The board may:

3889 (a) in ~~[furtherance of the authority granted under]~~ accordance with Subsection
3890 (1)~~[(f)]~~(e), appear as a party litigant on behalf of ~~[individuals or companies]~~ an individual or a
3891 company located or doing business ~~[within]~~ in the state in ~~[proceedings]~~ a proceeding before a
3892 regulatory ~~[commissions]~~ commission of the state, ~~[other states]~~ another state, or the federal
3893 government ~~[having jurisdiction over such matters]~~; and

3894 (b) in consultation with the executive director, make, amend, or repeal rules for the
3895 conduct of its business consistent with this part and in accordance with Title 63G, Chapter 3,
3896 Utah Administrative Rulemaking Act.

3897 Section 64. Section **63N-1-501**, which is renumbered from Section 63M-1-1303 is
3898 renumbered and amended to read:

3899 **Part 5. Governor's Economic Development Coordinating Council**

3900 ~~[63M-1-1303].~~ **63N-1-501. Governor's Economic Development**
3901 **Coordinating Council -- Membership -- Expenses.**

3902 (1) There is created in the office the Governor's Economic Development Coordinating

3903 Council, [~~hereafter referred to in this part as the "council",~~] consisting of the following 11
3904 members:

3905 (a) the executive director, who shall serve as chair of the council;

3906 (b) the chair of the board or the chair's designee;

3907 (c) the chair of the Utah Science Technology and Research Governing Authority
3908 created in Section 63M-2-301 or the chair's designee;

3909 (d) the chair of the [~~Utah Rural Development Council~~] Governor's Rural Partnership
3910 Board created in Section 63C-10-102 or the chair's designee;

3911 (e) the chair of the board of directors of the Utah Capital Investment Corporation
3912 created in Section 63N-6-301 or the chair's designee;

3913 (f) the chair of the Economic Development Corporation of Utah or its successor
3914 organization or the chair's designee;

3915 (g) the chair of the World Trade Center Utah or its successor organization or the chair's
3916 designee; and

3917 (h) four members appointed by the governor, with the [~~advice and~~] consent of the
3918 Senate, who have expertise in [~~the area of~~] business [~~or~~], economic development,
3919 entrepreneurship, or the raising of venture or seed capital for research and business growth.

3920 (2) (a) The four members appointed by the governor may serve for no more than two
3921 consecutive two-year terms.

3922 (b) The governor shall appoint a replacement if a vacancy occurs from the membership
3923 [~~described~~] appointed under Subsection (1)(h).

3924 (3) Six members of the council constitute a quorum for the purpose of conducting
3925 council business and the action of a majority of a quorum constitutes the action of the council.

3926 (4) A member may not receive compensation or benefits for the member's service on
3927 the council, but may receive per diem and travel expenses in accordance with:

3928 (a) Sections 63A-3-106 and 63A-3-107; and

3929 (b) rules made by the Division of Finance [~~pursuant to~~] under Sections 63A-3-106 and
3930 63A-3-107.

3931 (5) The office shall provide office space and administrative staff support for the
3932 council.

3933 (6) The council, as a governmental entity, has all the rights, privileges, and immunities

3934 of a governmental entity of the state and its meetings are subject to Title 52, Chapter 4, Open
3935 and Public Meetings Act.

3936 Section 65. Section **63N-1-502**, which is renumbered from Section 63M-1-1304 is
3937 renumbered and amended to read:

3938 ~~[63M-1-1304].~~ **63N-1-502. Council powers and duties.**

3939 (1) The council shall:

3940 (a) ~~[coordinate and advise]~~ make recommendations to the governor, the office, and the
3941 board on policies and objectives related to economic development and growth ~~[within]~~ in the
3942 state;

3943 (b) coordinate with state and private entities, including private venture capital and seed
3944 capital firms, to avoid duplication of programs and to increase the availability of venture and
3945 seed capital for research and for the development and growth of new and existing businesses in
3946 the state;

3947 (c) ~~[focus on]~~ give priority to technologies, industries, and geographical areas of the
3948 state in which the state can expand investment and entrepreneurship and stimulate job growth;

3949 (d) ~~[coordinate]~~ develop ideas and strategies to increase national and international
3950 business activities for both the urban and rural areas of the state; and

3951 (e) plan, coordinate, ~~[advise,]~~ or recommend ~~[any other]~~ action that would better the
3952 state's economy.

3953 (2) The council shall annually report its activities to the office for inclusion in the
3954 office's annual written report described in Section ~~[63M-1-206]~~ 63N-1-301.

3955 Section 66. Section **63N-2-101**, which is renumbered from Section 63M-1-2401 is
3956 renumbered and amended to read:

3957 **CHAPTER 2. TAX CREDIT INCENTIVES FOR ECONOMIC DEVELOPMENT**

3958 **Part 1. Economic Development Tax Increment Financing**

3959 ~~[63M-1-2401].~~ **63N-2-101. Title.**

3960 (1) This ~~[part]~~ chapter is known as ~~[the]~~ "Tax Credit Incentives for Economic
3961 Development [Incentives Act]."

3962 (2) This part is known as "Economic Development Tax Increment Financing."

3963 Section 67. Section **63N-2-102**, which is renumbered from Section 63M-1-2402 is
3964 renumbered and amended to read:

3965 ~~[63M-1-2402]~~. 63N-2-102. Purpose.

3966 (1) The Legislature finds that:

3967 (a) to foster and develop industry in Utah is a public purpose necessary to assure
3968 adequate employment for, and the welfare of, Utah's citizens and the growth of the state's
3969 economy;

3970 (b) Utah loses prospective high paying jobs, new economic growth, and corresponding
3971 incremental new state and local revenues to competing states because of a wide variety of
3972 competing economic incentives offered by those states; and

3973 (c) economic development initiatives and interests of state and local economic
3974 development officials should be aligned and united in the creation of higher paying jobs that
3975 will lift the wage levels of the communities in which those jobs will be created.

3976 (2) This part is enacted to:

3977 (a) foster and develop industry in the state, to provide additional employment
3978 opportunities for Utah's citizens, and to improve the state's economy;

3979 ~~[(a)]~~ (b) address the loss of prospective high paying jobs, the loss of new economic
3980 growth, and the corresponding loss of incremental new state and local revenues ~~[by providing]~~
3981 to competing states caused by economic incentives offered by those states;

3982 (c) provide tax credits to attract new commercial projects in economic development
3983 zones in the state; and

3984 ~~[(b)]~~ (d) provide a cooperative and unified working relationship between state and
3985 local economic development efforts.

3986 Section 68. Section **63N-2-103**, which is renumbered from Section 63M-1-2403 is
3987 renumbered and amended to read:

3988 ~~[63M-1-2403]~~. 63N-2-103. Definitions.

3989 As used in this part:

3990 (1) "Business entity" means a person that enters into an agreement with the office to
3991 initiate a new commercial project in Utah that will qualify the person to receive a tax credit
3992 under Section [59-7-614.2](#) or [59-10-1107](#).

3993 (2) "Community development and renewal agency" ~~[is]~~ has the same meaning as
3994 defined in Section [17C-1-102](#).

3995 (3) "Development zone" means an economic development zone created under Section

3996 [~~63M-1-2404~~] [63N-2-104](#).

3997 (4) "High paying jobs" means:

3998 (a) with respect to a business entity, the annual wages of employment positions in a
3999 business entity that compare favorably against the average wage of a community in which the
4000 employment positions will exist;

4001 (b) with respect to a county, the annual wages of employment positions in a new
4002 commercial project within the county that compare favorably against the average wage of the
4003 county in which the employment positions will exist; or

4004 (c) with respect to a city or town, the annual wages of employment positions in a new
4005 commercial project within the city or town that compare favorably against the average wages of
4006 the city or town in which the employment positions will exist.

4007 (5) "Local government entity" means a county, city, or town that enters into an
4008 agreement with the office to have a new commercial project that:

4009 (a) is initiated within the county's, city's, or town's boundaries; and

4010 (b) qualifies the county, city, or town to receive a tax credit under Section [59-7-614.2](#).

4011 (6) (a) "New commercial project" means an economic development opportunity that
4012 involves new or expanded industrial, manufacturing, distribution, or business services in Utah.

4013 (b) "New commercial project" does not include retail business.

4014 (7) (a) "New incremental jobs" means employment positions that are:

4015 [~~(a) not shifted from one jurisdiction in the state to another jurisdiction in the state;~~

4016 ~~and]~~

4017 ~~[(b)]~~ (i) with respect to a business entity, created in addition to the baseline count of
4018 employment positions that existed within the business entity before the new commercial
4019 project;

4020 (ii) with respect to a county, created as a result of a new commercial project with
4021 respect to which the county or a community development and renewal agency seeks to claim a
4022 tax credit under Section [59-7-614.2](#); or

4023 (iii) with respect to a city or town, created as a result of a new commercial project with
4024 respect to which the city, town, or a community development and renewal agency seeks to
4025 claim a tax credit under Section [59-7-614.2](#).

4026 (b) "New incremental jobs" does not include jobs that are shifted from one jurisdiction

4027 in the state to another jurisdiction in the state.

4028 (8) "New state revenues" means:

4029 (a) with respect to a business entity:

4030 (i) incremental new state sales and use tax revenues that a business entity pays under
4031 Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a
4032 development zone;

4033 (ii) incremental new state tax revenues~~[, if any,]~~ that a business entity pays as a result
4034 of a new commercial project in a development zone under:

4035 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

4036 (B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and
4037 Information;

4038 (C) Title 59, Chapter 10, Part 2, Trusts and Estates;

4039 (D) Title 59, Chapter 10, Part 4, Withholding of Tax; ~~[or]~~ and

4040 (E) a combination of Subsections (8)(a)(ii)(A) through (D);

4041 (iii) incremental new state tax revenues paid as individual income taxes under Title 59,
4042 Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by
4043 employees of a new or expanded industrial, manufacturing, distribution, or business service
4044 within a new commercial project as evidenced by payroll records that indicate the amount of
4045 employee income taxes withheld and transmitted to the State Tax Commission by the new or
4046 expanded industrial, manufacturing, distribution, or business service within the new
4047 commercial project; or

4048 (iv) a combination of Subsections (8)(a)(i) through (iii); or

4049 (b) with respect to a local government entity:

4050 (i) incremental new state sales and use tax revenues that are collected under Title 59,
4051 Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development
4052 zone;

4053 (ii) incremental new state tax revenues~~[, if any,]~~ that are collected as a result of a new
4054 commercial project in a development zone under:

4055 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

4056 (B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and
4057 Information;

- 4058 (C) Title 59, Chapter 10, Part 2, Trusts and Estates; and
4059 (D) Title 59, Chapter 10, Part 4, Withholding of Tax; [~~or~~] and
4060 (E) a combination of Subsections (8)(b)(ii)(A) through (D);
4061 (iii) incremental new state tax revenues paid as individual income taxes under Title 59,
4062 Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by
4063 employees of a new or expanded industrial, manufacturing, distribution, or business service
4064 within a new commercial project as evidenced by payroll records that indicate the amount of
4065 employee income taxes withheld and transmitted to the State Tax Commission by the new or
4066 expanded industrial, manufacturing, distribution, or business service within the new
4067 commercial project; or
4068 (iv) a combination of Subsections (8)(b)(i) through (iii).
4069 [~~(9) "Office" means the Governor's Office of Economic Development.~~]
4070 [~~(10)~~] (9) "Significant capital investment" means an amount of at least \$10,000,000 to
4071 purchase a capital asset or a fixed asset:
4072 (a) with the primary purpose of the investment to increase a business entity's rate at
4073 which it produces goods based on output per unit of labor;
4074 (b) that represents an expansion of existing [~~Utah~~] operations in the state; and
4075 (c) that maintains or increases the business entity's existing [~~Utah~~] work force in the
4076 state.
4077 [~~(11)~~] (10) "Tax credit" means an economic development tax credit created by Section
4078 [59-7-614.2](#) or [59-10-1107](#).
4079 [~~(12)~~] (11) "Tax credit amount" means the amount the office lists as a tax credit on a
4080 tax credit certificate for a taxable year.
4081 [~~(13)~~] (12) "Tax credit certificate" means a certificate issued by the office that:
4082 (a) lists the name of the business entity, local government entity, or community
4083 development and renewal agency to which the office authorizes a tax credit;
4084 (b) lists the business entity's, local government entity's, or community development and
4085 renewal agency's taxpayer identification number;
4086 (c) lists the amount of tax credit that the office authorizes the business entity, local
4087 government entity, or community development and renewal agency for the taxable year; and
4088 (d) may include other information as determined by the office.

4089 Section 69. Section **63N-2-104**, which is renumbered from Section 63M-1-2404 is
 4090 renumbered and amended to read:

4091 ~~[63M-1-2404].~~ **63N-2-104. Creation of economic development zones -- Tax**
 4092 **credits -- Assignment of tax credit.**

4093 (1) The office, with advice from the board, may create an economic development zone
 4094 in the state ~~[that satisfies all of]~~ if the following requirements are satisfied:

4095 (a) the area is zoned commercial, industrial, manufacturing, business park, research
 4096 park, or other appropriate use in a community-approved master plan;

4097 (b) the request to create a development zone has ~~[been forwarded to the office after]~~
 4098 first ~~[being]~~ been approved by an appropriate local government entity; and

4099 (c) local incentives have been ~~[committed]~~ or will be committed to be provided within
 4100 the area.

4101 (2) (a) By following the procedures and requirements of Title 63G, Chapter 3, Utah
 4102 Administrative Rulemaking Act, the office shall make rules establishing the ~~[conditions that]~~
 4103 requirements for a business entity or local government entity [shall meet] to qualify for a tax
 4104 credit for a new commercial project in a development zone under this part.

4105 (b) The office shall ensure that the ~~[conditions]~~ requirements described in Subsection
 4106 (2)(a) include the following requirements:

4107 (i) the new commercial project ~~[must be]~~ is within the development zone;

4108 (ii) the new commercial project includes direct investment within the geographic
 4109 boundaries of the development zone;

4110 (iii) the new commercial project brings new incremental jobs to Utah;

4111 (iv) the new commercial project includes significant capital investment, the creation of
 4112 high paying jobs, ~~[or]~~ significant purchases from Utah vendors and providers, or ~~[any]~~ a
 4113 combination of these ~~[three]~~ economic factors;

4114 (v) the new commercial project generates new state revenues; and

4115 (vi) ~~[(A)]~~ a business entity ~~[or]~~, a local government entity ~~[qualifying for the tax~~
 4116 credit], or a community development and renewal agency to which a local government entity
 4117 assigns a tax credit under this section, meets the requirements of Section ~~[63M-1-2405; or]~~
 4118 63N-2-105.

4119 ~~[(B) a community development and renewal agency to which a local government entity~~

4120 ~~assigns a tax credit under this section meets the requirements of Section 63M-1-2405.]~~

4121 (3) (a) ~~[Subject to the other provisions of this Subsection (3), the office, with advice~~
4122 ~~from] The office, after consultation with the board, may enter into [an] a written agreement~~
4123 with a business entity or local government entity authorizing a tax credit to the business entity
4124 or local government entity if the business entity or local government entity meets the ~~[standards~~
4125 ~~established under Subsection (2)] requirements described in this section.~~

4126 (b) (i) With respect to ~~[one] a~~ new commercial project, the office may authorize a tax
4127 credit to a business entity or a local government entity, but not both.

4128 (ii) In determining whether to authorize a tax credit with respect to ~~[one] a~~ new
4129 commercial project to a business entity or a local government entity, the office shall authorize
4130 the tax credit in a manner that the office determines will result in providing the most effective
4131 incentive for the new commercial project.

4132 (c) (i) ~~[The] Except as provided in Subsection (3)(c)(ii), the~~ office may not authorize or
4133 commit to authorize a tax credit ~~[if that tax credit] that~~ exceeds:

4134 (A) 50% of the new state revenues from the new commercial project in any given year;
4135 or

4136 (B) 30% of the new state revenues from the new commercial project over the lesser of
4137 the life of a new commercial project or 20 years~~[, whichever is less]~~.

4138 (ii) ~~[Notwithstanding Subsection (3)(c)(i), the] The~~ office may authorize or commit to
4139 authorize a tax credit not exceeding 60% of new state revenues from the new commercial
4140 project in any given year, if the eligible business entity:

4141 (A) creates a significant number of high paying jobs; and

4142 (B) makes capital expenditures in the state of at least \$1,000,000,000.

4143 (d) (i) A local government entity may by resolution assign a tax credit that the office
4144 authorizes to the local government entity to a community development and renewal agency.

4145 (ii) The local government entity shall provide a copy of the resolution described in
4146 Subsection (3)(d)(i) to the office.

4147 (iii) If a local government entity assigns a tax credit to a community development and
4148 renewal agency~~[-(A)]~~, the written agreement described in ~~[this section]~~ Subsection (3)(a) shall:

4149 ~~[(f)] (A)~~ be among the office, the local government entity, and the community
4150 development and renewal agency; ~~[and]~~

4151 ~~[(H)]~~ (B) establish~~[-(Aa)]~~ the obligations of the local government entity and the
 4152 community development and renewal agency; and

4153 ~~[(Bb)]~~ (C) establish the extent to which any of the local government entity's obligations
 4154 are transferred to the community development and renewal agency~~[-]~~.

4155 (iv) If a local government entity assigns a tax credit to a community development and
 4156 renewal agency:

4157 ~~[(B)]~~ (A) the community development and renewal agency shall retain records as
 4158 described in Subsection (4)(d); and

4159 ~~[(C)]~~ (B) a tax credit certificate issued in accordance with Section [~~63M-1-2406~~]
 4160 63N-2-106 shall list the community development and renewal agency as the name of the
 4161 applicant.

4162 (4) [~~Subject to Subsection (3), the~~] The office shall ensure that the written agreement
 4163 described in Subsection (3):

4164 (a) [~~details~~] specifies the requirements that the business entity or local government
 4165 entity shall meet to qualify for a tax credit under this part;

4166 (b) specifies the maximum amount of tax credit that the business entity or local
 4167 government entity may be authorized for a taxable year and over the life of the new commercial
 4168 project;

4169 (c) establishes the length of time the business entity or local government entity may
 4170 claim a tax credit;

4171 (d) requires the business entity or local government entity to retain records supporting a
 4172 claim for a tax credit for at least four years after the business entity or local government entity
 4173 claims a tax credit under this part; and

4174 (e) requires the business entity or local government entity to submit to audits for
 4175 verification of the tax credit claimed.

4176 Section 70. Section **63N-2-105**, which is renumbered from Section 63M-1-2405 is
 4177 renumbered and amended to read:

4178 [~~63M-1-2405~~]. **63N-2-105. Qualifications for tax credit -- Procedure.**

4179 (1) The office shall certify a business entity's or local government entity's eligibility for
 4180 a tax credit as provided in this [~~section~~] part.

4181 (2) A business entity or local government entity seeking to receive a tax credit as

4182 provided in this part shall provide the office with:

4183 (a) an application for a tax credit certificate, including a certification, by an officer of
4184 the business entity, of any signature on the application;

4185 (b) (i) for a business entity, documentation of the new state revenues from the business
4186 entity's new commercial project that were paid during the preceding calendar year; or

4187 (ii) for a local government entity, documentation of the new state revenues from the
4188 new commercial project within the area of the local government entity that were paid during
4189 the preceding calendar year;

4190 (c) known or expected detriments to the state or existing businesses in the state;

4191 (d) if a local government entity seeks to assign the tax credit to a community
4192 development and renewal agency [~~in accordance with~~] as described in Section [~~63M-1-2404~~]
4193 63N-2-104, a statement providing the name and taxpayer identification number of the
4194 community development and renewal agency to which the local government entity seeks to
4195 assign the tax credit;

4196 (e) (i) with respect to a business entity, a document that expressly directs and
4197 authorizes the State Tax Commission to disclose to the office the business entity's returns and
4198 other information that would otherwise be subject to confidentiality under Section 59-1-403 or
4199 Section 6103, Internal Revenue Code[~~, to the office~~];

4200 (ii) with respect to a local government entity that seeks to claim the tax credit:

4201 (A) a document that expressly directs and authorizes the State Tax Commission to
4202 disclose to the office the local government entity's returns and other information that would
4203 otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal
4204 Revenue Code[~~, to the office~~]; and

4205 (B) if the new state revenues collected as a result of a new commercial project are
4206 attributable in whole or in part to a new or expanded industrial, manufacturing, distribution, or
4207 business service within a new commercial project within the area of the local government
4208 entity, a document signed by an authorized representative of the new or expanded industrial,
4209 manufacturing, distribution, or business service that:

4210 (I) expressly directs and authorizes the State Tax Commission to disclose to the office
4211 the returns of [~~that~~] the new or expanded industrial, manufacturing, distribution, or business
4212 service and other information that would otherwise be subject to confidentiality under Section

4213 [59-1-403](#) or Section 6103, Internal Revenue Code~~[- to the office]~~; and

4214 (II) lists the taxpayer identification number of ~~[that]~~ the new or expanded industrial,
4215 manufacturing, distribution, or business service; or

4216 (iii) with respect to a local government entity that seeks to assign the tax credit to a
4217 community development and renewal agency:

4218 (A) a document signed by the members of the governing body of the community
4219 development and renewal agency that expressly directs and authorizes the State Tax
4220 Commission to disclose to the office the returns of the community development and renewal
4221 agency and other information that would otherwise be subject to confidentiality under Section
4222 [59-1-403](#) or Section 6103, Internal Revenue Code~~[- to the office]~~; and

4223 (B) if the new state revenues collected as a result of a new commercial project are
4224 attributable in whole or in part to a new or expanded industrial, manufacturing, distribution, or
4225 business service within a new commercial project within the community development and
4226 renewal agency, a document signed by an authorized representative of the new or expanded
4227 industrial, manufacturing, distribution, or business service that:

4228 (I) expressly directs and authorizes the State Tax Commission to disclose to the office
4229 the returns of ~~[that]~~ the new or expanded industrial, manufacturing, distribution, or business
4230 service and other information that would otherwise be subject to confidentiality under Section
4231 [59-1-403](#) or Section 6103, Internal Revenue Code~~[- to the office]~~; and

4232 (II) lists the taxpayer identification number of ~~[that]~~ the new or expanded industrial,
4233 manufacturing, distribution, or business service; and

4234 (f) for a business entity only, documentation that the business entity has satisfied the
4235 performance benchmarks outlined in the written agreement described in Subsection
4236 ~~[[63M-1-2404\(3\)\(a\)](#)] [63N-2-104\(3\)](#)~~, including:

4237 (i) significant capital investment;

4238 (ii) the creation of high paying jobs;

4239 (iii) significant purchases from Utah vendors and providers; or

4240 (iv) ~~[any combination of Subsections (2)(f)(i), (ii), and (iii)]~~ a combination of these
4241 benchmarks.

4242 (3) (a) The office shall submit the documents described in Subsection (2)(e) to the
4243 State Tax Commission.

4244 (b) Upon receipt of a document described in Subsection (2)(e), the State Tax
4245 Commission shall provide the office with the returns and other information requested by the
4246 office that the State Tax Commission is directed or authorized to provide to the office in
4247 accordance with Subsection (2)(e).

4248 (4) If, after review of the returns and other information provided by the State Tax
4249 Commission, or after review of the ongoing performance of the business entity or local
4250 government entity, the office determines that the returns and other information are inadequate
4251 to provide a reasonable justification for authorizing or continuing a tax credit, the office shall:

4252 (a) (i) deny the tax credit; or

4253 (ii) terminate the agreement described in Subsection [~~63M-1-2404(3)(a)~~] 63N-2-104(3)
4254 for failure to meet the performance standards established in the agreement; or

4255 (b) inform the business entity or local government entity that the returns or other
4256 information were inadequate and ask the business entity or local government entity to submit
4257 new documentation.

4258 (5) If after review of the returns and other information provided by the State Tax
4259 Commission, the office determines that the returns and other information provided by the
4260 business entity or local government entity provide reasonable justification for authorizing a tax
4261 credit, the office shall, based upon the returns and other information:

4262 (a) determine the amount of the tax credit to be granted to the business entity, local
4263 government entity, or if the local government entity assigns the tax credit [~~in accordance with~~]
4264 as described in Section [~~63M-1-2404~~] 63N-2-104, to the community development and renewal
4265 agency to which the local government entity assigns the tax credit;

4266 (b) issue a tax credit certificate to the business entity, local government entity, or if the
4267 local government entity assigns the tax credit [~~in accordance with~~] as described in Section
4268 [~~63M-1-2404~~] 63N-2-104, to the community development and renewal agency to which the
4269 local government entity assigns the tax credit; and

4270 (c) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

4271 (6) A business entity, local government entity, or community development and renewal
4272 agency may not claim a tax credit unless the business entity, local government entity, or
4273 community development and renewal agency has a tax credit certificate issued by the office.

4274 (7) (a) A business entity, local government entity, or community development and

4275 renewal agency may claim a tax credit in the amount listed on the tax credit certificate on its
4276 tax return.

4277 (b) A business entity, local government entity, or community development and renewal
4278 agency that claims a tax credit under this section shall retain the tax credit certificate in
4279 accordance with Section [59-7-614.2](#) or [59-10-1107](#).

4280 Section 71. Section **63N-2-106**, which is renumbered from Section 63M-1-2406 is
4281 renumbered and amended to read:

4282 **~~[63M-1-2406]~~. 63N-2-106. Reports -- Posting monthly and annual reports --**
4283 **Audit and study of tax credits.**

4284 (1) The office shall include the following information in the annual written report
4285 described in Section [[63M-1-206](#)] [63N-1-301](#):

4286 (a) the office's success in attracting new commercial projects to development zones
4287 under this part and the corresponding increase in new incremental jobs;

4288 (b) the estimated amount of tax credit commitments made by the office and the period
4289 of time over which tax credits will be paid;

4290 (c) the economic impact on the state [~~related to generating~~] from new state revenues
4291 and [~~providing~~] the provision of tax credits under this part;

4292 (d) the estimated costs and economic benefits of the tax credit commitments [~~that~~]
4293 made by the office [~~made~~];

4294 (e) the actual costs and economic benefits of the tax credit commitments [~~that~~] made
4295 by the office [~~made~~]; and

4296 (f) tax credit commitments [~~that~~] made by the office [~~made~~], with the associated
4297 calculation.

4298 (2) [~~The~~] Each month, the office shall [~~monthly~~] post on its website and on a state
4299 website:

4300 (a) the new tax credit commitments [~~that~~] made by the office [~~made~~] during the
4301 previous month; and

4302 (b) the estimated costs and economic benefits of those tax credit commitments.

4303 (3) (a) On or before November 1, 2014, and every five years after November 1, 2014,
4304 the office shall:

4305 (i) conduct an audit of the tax credits allowed under Section [[63M-1-2405](#)] [63N-2-105](#);

4306 (ii) study the tax credits allowed under Section [~~63M-1-2405~~] 63N-2-105; and
 4307 (iii) make recommendations concerning whether the tax credits should be continued,
 4308 modified, or repealed.

4309 (b) [~~An~~] The audit [~~under Subsection (3)(a)(i)~~] shall include an evaluation of:

4310 (i) the cost of the tax credits;
 4311 (ii) the purposes and effectiveness of the tax credits; and
 4312 (iii) the extent to which the state benefits from the tax credits.

4313 Section 72. Section **63N-2-107**, which is renumbered from Section 63M-1-2407 is
 4314 renumbered and amended to read:

4315 ~~[63M-1-2407]~~. **63N-2-107. Reports of new state revenues, partial rebates,**
 4316 **and tax credits.**

4317 (1) Before December 1 of each year, the office shall submit a report to the Governor's
 4318 Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the Division
 4319 of Finance identifying:

4320 (a) (i) the total estimated amount of new state revenues created from new commercial
 4321 projects in [~~the~~] development zones; and

4322 (ii) the estimated amount of new state revenues from new commercial projects in [~~the~~]
 4323 development zones that will be generated from:

4324 (A) sales tax;
 4325 (B) income tax; and
 4326 (C) corporate franchise and income tax; and

4327 [~~(b) (i) the total estimated amount of partial rebates as defined in Section 63M-1-2408~~
 4328 ~~that the office projects will be required to be paid in the next fiscal year; and]~~

4329 [~~(ii) the estimated amount of partial rebates as defined in Section 63M-1-2408 that are~~
 4330 ~~attributable to:]~~

4331 [~~(A) sales tax;~~]
 4332 [~~(B) income tax; and]~~
 4333 [~~(C) corporate franchise and income tax; and]~~

4334 [~~(e)~~] (b) the total estimated amount of tax credits that the office projects that business
 4335 entities, local government entities, or community development and renewal agencies will
 4336 qualify to claim under this part.

4337 (2) By the first business day of each month, the office shall submit a report to the
 4338 Governor's Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the
 4339 Division of Finance identifying:

4340 (a) each new agreement entered into by the office since the last report;

4341 (b) the estimated amount of new state revenues that will be generated under each
 4342 agreement; and

4343 (c) the estimated maximum amount of tax credits that a business entity, local
 4344 government entity, or community development and renewal agency could qualify for under
 4345 each agreement.

4346 Section 73. Section **63N-2-108**, which is renumbered from Section 63M-1-2409 is
 4347 renumbered and amended to read:

4348 ~~[63M-1-2409]~~. **63N-2-108. Expenditure of amounts received by a local**
 4349 **government entity or community development and renewal agency as a tax credit --**
 4350 **Commingling of tax credit amounts with certain other amounts.**

4351 (1) Subject to Subsections (2) and (3), a local government entity or community
 4352 development and renewal agency may expend amounts the local government entity or
 4353 community development and renewal agency receives as a tax credit under Section [59-7-614.2](#):

4354 (a) for infrastructure, including real property or personal property, if that infrastructure
 4355 is related to the new commercial project with respect to which the local government entity or
 4356 community development and renewal agency claims the tax credit under Section [59-7-614.2](#); or

4357 (b) for another economic development purpose related to the new commercial project
 4358 with respect to which the local government entity or community development and renewal
 4359 agency claims the tax credit under Section [59-7-614.2](#).

4360 (2) A local government entity may:

4361 (a) commingle amounts the local government entity receives as a tax credit under
 4362 Section [59-7-614.2](#) with amounts the local government entity receives under Title ~~[63M]~~ 63N,
 4363 Chapter ~~[†]~~ 3, Part ~~[9]~~ 1, Industrial Assistance ~~[Fund]~~ Account; and

4364 (b) expend the commingled amounts described in Subsection (2)(a) for a purpose
 4365 described in Title ~~[63M]~~ 63N, Chapter ~~[†]~~ 3, Part ~~[9]~~ 1, Industrial Assistance ~~[Fund]~~ Account,
 4366 if that purpose is related to the new commercial project with respect to which the local
 4367 government entity claims the tax credit under Section [59-7-614.2](#).

- 4368 (3) A community development and renewal agency may:
- 4369 (a) commingle amounts the community development and renewal agency receives as a
- 4370 tax credit under Section 59-7-614.2 with amounts the community development and renewal
- 4371 agency receives under Title 17C, Chapter 1, Part 4, Tax Increment and Sales Tax; and
- 4372 (b) expend the commingled amounts described in Subsection (3)(a) for a purpose
- 4373 described in Title 17C, Chapter 1, Part 4, Tax Increment and Sales Tax, if that purpose is
- 4374 related to the new commercial project with respect to which the community development and
- 4375 renewal agency claims the tax credit under Section 59-7-614.2.

4376 Section 74. Section 63N-2-201, which is renumbered from Section 63M-1-401 is
 4377 renumbered and amended to read:

Part 2. Enterprise Zone Act

4378 ~~63M-1-401~~. 63N-2-201. Title.

4379 This part is known as the "Enterprise Zone Act."

4380 Section 75. Section 63N-2-202, which is renumbered from Section 63M-1-402 is
 4381 renumbered and amended to read:

4382 ~~63M-1-402~~. 63N-2-202. Definitions.

4383 As used in this part:

- 4384 (1) "Business entity" means an entity, sole proprietorship, or individual:
- 4385 (a) including a claimant, estate, or trust; and
- 4386 (b) under which or by whom business is conducted or transacted.
- 4387 (2) "Claimant" means a resident or nonresident person that has:
- 4388 (a) Utah taxable income as defined in Section 59-7-101; or
- 4389 (b) state taxable income under Title 59, Chapter 10, Part 1, Determination and
- 4390 Reporting of Tax Liability and Information.
- 4391 (3) "County applicant" means the governing authority of a county that meets the
- 4392 requirements for designation as an enterprise zone under Section ~~63M-1-404~~ 63N-2-204.
- 4393 (4) "Estate" means a nonresident estate or a resident estate that has state taxable
- 4394 income under Title 59, Chapter 10, Part 2, Trusts and Estates.
- 4395 (5) "Municipal applicant" means the governing authority of a city or town that meets
- 4396 the requirements for designation as an enterprise zone under Section ~~63M-1-404~~ 63N-2-204.
- 4397 (6) "New full-time employee position" means a position that has been newly created
- 4398

4399 and then filled by an employee working at least 30 hours per week:

4400 (a) for a period of not less than six consecutive months; and

4401 (b) where the period ends in the tax year for which the credit is claimed.

4402 (7) "Nonrefundable tax credit" or "tax credit" means a tax credit that a business entity

4403 may:

4404 (a) claim:

4405 (i) as provided by statute; and

4406 (ii) in an amount that does not exceed the business entity's tax liability for a taxable

4407 year under:

4408 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

4409 (B) Title 59, Chapter 10, Individual Income Tax Act; and

4410 (b) carry forward or carry back:

4411 (i) if allowed by statute; and

4412 (ii) to the extent that the amount of the tax credit exceeds the business entity's tax

4413 liability for a taxable year under:

4414 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

4415 (B) Title 59, Chapter 10, Individual Income Tax Act.

4416 (8) "Tax incentives" or "tax benefits" means the nonrefundable tax credits described in

4417 Section [~~63M-1-413~~] [63N-2-213](#).

4418 (9) "Trust" means a nonresident trust or a resident trust that has state taxable income

4419 under Title 59, Chapter 10, Part 2, Trusts and Estates.

4420 Section 76. Section **63N-2-203**, which is renumbered from Section 63M-1-403 is

4421 renumbered and amended to read:

4422 ~~[63M-1-403]~~. **63N-2-203. Powers of the office.**

4423 The office shall:

4424 (1) monitor the implementation and operation of this part and conduct a continuing

4425 evaluation of the progress made in the enterprise zones;

4426 (2) evaluate an application for designation as an enterprise zone from a county

4427 applicant or a municipal applicant and determine if the applicant qualifies for that designation;

4428 (3) provide technical assistance to county applicants and municipal applicants in

4429 developing applications for designation as enterprise zones;

4430 (4) assist county applicants and municipal applicants designated as enterprise zones in
4431 obtaining assistance from the federal government and agencies of the state;

4432 (5) assist a qualified business entity in obtaining the benefits of an incentive or
4433 inducement program authorized by this part; and

4434 (6) as part of the annual written report described in Section [\[63M-1-206\]](#) [63N-2-301](#),
4435 prepare an annual evaluation based, in part, on data provided by the State Tax Commission that
4436 evaluates the effectiveness of the program and any suggestions for legislation.

4437 Section 77. Section **63N-2-204**, which is renumbered from Section 63M-1-404 is
4438 renumbered and amended to read:

4439 **~~[63M-1-404]~~. 63N-2-204. Criteria for designation of enterprise zones --**
4440 **Application.**

4441 (1) A county applicant seeking designation as an enterprise zone shall file an
4442 application with the office that, in addition to complying with the other requirements of this
4443 part:

- 4444 (a) verifies that the county has a population of not more than 50,000; and
- 4445 (b) provides clear evidence of the need for development in the county.

4446 (2) A municipal applicant seeking designation as an enterprise zone shall file an
4447 application with the office that, in addition to complying with other requirements of this part:

- 4448 (a) verifies that the municipality has a population that does not exceed 15,000;
- 4449 (b) verifies that the municipality is within a county that has a population of not more
4450 than 50,000; and
- 4451 (c) provides clear evidence of the need for development in the municipality.

4452 (3) An application filed under Subsection (1) or (2) shall be in a form and in
4453 accordance with procedures approved by the office, and shall include the following
4454 information:

4455 (a) a plan developed by the county applicant or municipal applicant that identifies local
4456 contributions meeting the requirements of Section [\[63M-1-405\]](#) [63N-2-205](#);

4457 (b) the county applicant or municipal applicant has a development plan that outlines:

- 4458 (i) the types of investment and development within the zone that the county applicant
4459 or municipal applicant expects to take place if the incentives specified in this part are provided;
- 4460 (ii) the specific investment or development reasonably expected to take place;

- 4461 (iii) any commitments obtained from businesses;
- 4462 (iv) the projected number of jobs that will be created and the anticipated wage level of
- 4463 those jobs;
- 4464 (v) any proposed emphasis on the type of jobs created, including any affirmative action
- 4465 plans; and
- 4466 (vi) a copy of the county applicant's or municipal applicant's economic development
- 4467 plan to demonstrate coordination between the zone and overall county or municipal goals;
- 4468 (c) the county applicant's or municipal applicant's proposed means of assessing the
- 4469 effectiveness of the development plan or other programs within the zone once they have been
- 4470 implemented within the zone;
- 4471 (d) any additional information required by the office; and
- 4472 (e) any additional information the county applicant or municipal applicant considers
- 4473 relevant to its designation as an enterprise zone.

4474 Section 78. Section **63N-2-205**, which is renumbered from Section 63M-1-405 is

4475 renumbered and amended to read:

4476 ~~**[63M-1-405]**~~. **63N-2-205. Qualifying local contributions.**

- 4477 (1) An area may be designated as an enterprise zone only if the county applicant or
- 4478 municipal applicant agrees to make a qualifying local contribution.
- 4479 (2) The qualifying local contribution may vary depending on available resources, and
- 4480 may include such elements as:
 - 4481 (a) simplified procedures for obtaining permits;
 - 4482 (b) dedication of available government grants;
 - 4483 (c) dedication of training funds;
 - 4484 (d) waiver of business license fees;
 - 4485 (e) infrastructure improvements;
 - 4486 (f) private contributions;
 - 4487 (g) utility rate concessions;
 - 4488 (h) small business incubator programs; or
 - 4489 (i) management assistance programs.

4490 Section 79. Section **63N-2-206**, which is renumbered from Section 63M-1-406 is

4491 renumbered and amended to read:

4492 ~~[63M-1-406]~~. 63N-2-206. Eligibility review.

4493 (1) The office shall:

4494 (a) review and evaluate the applications submitted under Section ~~[63M-1-404]~~

4495 63N-2-204; and

4496 (b) determine whether each county applicant or municipal applicant is eligible for
4497 designation as an enterprise zone.

4498 (2) (a) The office shall designate enterprise zones.

4499 (b) The office shall consider and evaluate an application using the following criteria:

4500 (i) the pervasiveness of poverty, unemployment, and general distress in the proposed
4501 zone;

4502 (ii) the extent of chronic abandonment, deterioration, or reduction in value of
4503 commercial, industrial, or residential structures in the proposed zone, and the extent of property
4504 tax arrearages in the proposed zone;

4505 (iii) the potential for new investment and economic development in the proposed zone;

4506 (iv) the county applicant's or municipal applicant's proposed use of other state and
4507 federal development funds or programs to increase the probability of new investment and
4508 development occurring;

4509 (v) the extent to which the projected development in the zone will provide employment
4510 to residents of the county and particularly individuals who are unemployed or who are
4511 economically disadvantaged;

4512 (vi) the degree to which the county applicant's or municipal applicant's application
4513 promotes innovative solutions to economic development problems and demonstrates local
4514 initiative; and

4515 (vii) other relevant factors that the office specifies in its recommendation.

4516 Section 80. Section 63N-2-207, which is renumbered from Section 63M-1-407 is
4517 renumbered and amended to read:

4518 ~~[63M-1-407]~~. 63N-2-207. Quarterly consideration.

4519 The office shall consider designating enterprise zones quarterly.

4520 Section 81. Section 63N-2-208, which is renumbered from Section 63M-1-408 is
4521 renumbered and amended to read:

4522 ~~[63M-1-408]~~. 63N-2-208. Duration of designation.

4523 Each enterprise zone has a duration of five years, at the end of which the county may
4524 reapply for the designation.

4525 Section 82. Section **63N-2-209**, which is renumbered from Section 63M-1-409 is
4526 renumbered and amended to read:

4527 ~~**63M-1-409**~~. **63N-2-209**. **Contingent designations.**

4528 (1) The office may accept applications for, and may at any time grant, a contingent
4529 designation of any county as an enterprise zone for purposes of seeking a designation of the
4530 county as a federally designated zone.

4531 (2) This designation does not entitle a business operating in that county to the tax
4532 incentives under this part.

4533 Section 83. Section **63N-2-210**, which is renumbered from Section 63M-1-410 is
4534 renumbered and amended to read:

4535 ~~**63M-1-410**~~. **63N-2-210**. **Revocation of designations.**

4536 (1) The office may revoke the designation of an enterprise zone, if no businesses utilize
4537 the tax incentives during any calendar year.

4538 (2) Prior to that action, the office shall conduct a public hearing to determine reasons
4539 for inactivity and explore possible alternative actions.

4540 Section 84. Section **63N-2-211**, which is renumbered from Section 63M-1-411 is
4541 renumbered and amended to read:

4542 ~~**63M-1-411**~~. **63N-2-211**. **Disqualifying transfers.**

4543 Except in counties of the first or second class, tax incentives provided by this part are
4544 not available to companies that close or permanently curtail operations in another part of the
4545 state in connection with a transfer of any part of its business operations to an enterprise zone, if
4546 the closure or permanent curtailment is reasonably expected to diminish employment in that
4547 part of the state.

4548 Section 85. Section **63N-2-212**, which is renumbered from Section 63M-1-412 is
4549 renumbered and amended to read:

4550 ~~**63M-1-412**~~. **63N-2-212**. **Business entities qualifying for tax incentives.**

4551 (1) Except as otherwise provided in Subsection (2), the tax incentives described in this
4552 part are available only to a business entity for which at least 51% of the employees employed at
4553 facilities of the business entity located in the enterprise zone are individuals who, at the time of

4554 employment, reside in:

4555 (a) the county in which the enterprise zone is located; or

4556 (b) an enterprise zone that is immediately adjacent and contiguous to the county in
4557 which the enterprise zone is located.

4558 (2) Subsection (1) does not apply to a business entity that has no employees.

4559 Section 86. Section **63N-2-213**, which is renumbered from Section 63M-1-413 is
4560 renumbered and amended to read:

4561 ~~**63M-1-413**~~. **63N-2-213. State tax credits.**

4562 (1) Subject to the limitations of Subsections (2) through (4), the following
4563 nonrefundable tax credits against a tax under Title 59, Chapter 7, Corporate Franchise and
4564 Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, are applicable in an
4565 enterprise zone:

4566 (a) a tax credit of \$750 may be claimed by a business entity for each new full-time
4567 employee position created within the enterprise zone;

4568 (b) an additional \$500 tax credit may be claimed if the new full-time employee position
4569 created within the enterprise zone pays at least 125% of:

4570 (i) the county average monthly nonagricultural payroll wage for the respective industry
4571 as determined by the Department of Workforce Services; or

4572 (ii) if the county average monthly nonagricultural payroll wage is not available for the
4573 respective industry, the total average monthly nonagricultural payroll wage in the respective
4574 county where the enterprise zone is located;

4575 (c) an additional tax credit of \$750 may be claimed if the new full-time employee
4576 position created within the enterprise zone is in a business entity that adds value to agricultural
4577 commodities through manufacturing or processing;

4578 (d) an additional tax credit of \$200 may be claimed for two consecutive years for each
4579 new full-time employee position created within the enterprise zone that is filled by an
4580 employee who is insured under an employer-sponsored health insurance program if the
4581 employer pays at least 50% of the premium cost for the year for which the credit is claimed;

4582 (e) a tax credit of 50% of the value of a cash contribution to a private nonprofit
4583 corporation, except that the credit claimed may not exceed \$100,000:

4584 (i) that is exempt from federal income taxation under Section 501(c)(3), Internal

4585 Revenue Code;

4586 (ii) whose primary purpose is community and economic development; and

4587 (iii) that has been accredited by the Governor's Rural Partnership Board;

4588 (f) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the
4589 enterprise zone that has been vacant for two years or more; and

4590 (g) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5%
4591 of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable
4592 property.

4593 (2) (a) Subject to the limitations of Subsection (2)(b), a business entity claiming tax
4594 credits under Subsections (1)(a) through (d) may claim the tax credits for up to 30 full-time
4595 employee positions per taxable year.

4596 (b) A business entity that received a tax credit for one or more new full-time employee
4597 positions under Subsections (1)(a) through (d) in a prior taxable year may claim a tax credit for
4598 a new full-time employee position in a subsequent taxable year under Subsections (1)(a)
4599 through (d) if:

4600 (i) the business entity has created a new full-time position within the enterprise zone;
4601 and

4602 (ii) the total number of full-time employee positions at the business entity at any point
4603 during the tax year for which the tax credit is being claimed is greater than the number of
4604 full-time employee positions that existed at the business entity at any point during the taxable
4605 year immediately preceding the taxable year for which the credit is being claimed.

4606 (c) Construction jobs are not eligible for the tax credits under Subsections (1)(a)
4607 through (d).

4608 (3) If the amount of a tax credit under this section exceeds a business entity's tax
4609 liability under this chapter for a taxable year, the business entity may carry forward the amount
4610 of the tax credit exceeding the liability for a period that does not exceed the next three taxable
4611 years.

4612 (4) Tax credits under Subsections (1)(a) through (g) may not be claimed by a business
4613 entity primarily engaged in retail trade or by a public utilities business.

4614 (5) A business entity that has no employees:

4615 (a) may not claim tax credits under Subsections (1)(a) through (d); and

4616 (b) may claim tax credits under Subsections (1)(e) through (g).

4617 (6) A business entity may not claim or carry forward a tax credit available under this
4618 part for a taxable year during which the business entity has claimed the targeted business
4619 income tax credit available under Section [63M-1-504](#).

4620 Section 87. Section **63N-2-214**, which is renumbered from Section 63M-1-414 is
4621 renumbered and amended to read:

4622 ~~[63M-1-414]~~. **63N-2-214. Annual report.**

4623 Each county applicant or municipal applicant designated as an enterprise zone shall
4624 annually report to the office regarding the economic activity that has occurred in the zone
4625 following the designation.

4626 Section 88. Section **63N-2-215**, which is renumbered from Section 63M-1-415 is
4627 renumbered and amended to read:

4628 ~~[63M-1-415]~~. **63N-2-215. Indian tribes -- Application.**

4629 (1) For purposes of this section:

4630 (a) "Indian reservation" [~~is~~] has the same meaning as defined in Section [9-9-210](#).

4631 (b) "Indian tribe" [~~is~~] has the same meaning as defined in Subsection [9-9-402\(6\)](#).

4632 (c) "Tribal applicant" means the governing authority of a tribe that meets the
4633 requirements for designation as an enterprise zone under Subsection (2).

4634 (2) Indian tribes may apply for designation of an area within an Indian reservation as an
4635 enterprise zone.

4636 (3) The tribal applicant shall follow the application procedure for a municipal applicant
4637 in this part except for the population requirement in Subsections [~~63M-1-404~~] [63N-2-204](#)(2)(a)
4638 and (b).

4639 Section 89. Section **63N-2-301** is enacted to read:

4640 **Part 3. Targeted Business Income Tax Credit in an Enterprise Zone**

4641 **63N-2-301. Title.**

4642 This part is known as "Targeted Business Income Tax Credit in an Enterprise Zone."

4643 Section 90. Section **63N-2-302**, which is renumbered from Section 63M-1-501 is
4644 renumbered and amended to read:

4645 ~~[63M-1-501]~~. **63N-2-302. Definitions.**

4646 As used in this part:

4647 (1) "Allocated cap amount" means the total amount of the targeted business income tax
4648 credit that a business applicant is allowed to claim for a taxable year that represents a pro rata
4649 share of the total amount of \$300,000 for each fiscal year allowed under Subsection
4650 ~~[63M-1-504]~~ 63N-2-305(2).

4651 (2) "Business applicant" means a business that:

4652 (a) is a:

4653 (i) claimant;

4654 (ii) estate; or

4655 (iii) trust; and

4656 (b) meets the criteria established in Section ~~[63M-1-503]~~ 63N-2-304.

4657 (3) (a) Except as provided in Subsection (3)(b), "claimant" means a resident or
4658 nonresident person.

4659 (b) "Claimant" does not include an estate or trust.

4660 (4) "Community investment project" means a project that includes one or more of the
4661 following criteria in addition to the normal operations of the business applicant:

4662 (a) substantial new employment;

4663 (b) new capital development; or

4664 (c) a combination of both Subsections (4)(a) and (b).

4665 (5) "Community investment project period" means the total number of years that the
4666 office determines a business applicant is eligible for a targeted business income tax credit for
4667 each community investment project.

4668 (6) "Enterprise zone" means an area within a county or municipality that has been
4669 designated as an enterprise zone by the office under Part ~~[4]~~ 2, Enterprise Zone Act.

4670 (7) "Estate" means a nonresident estate or a resident estate.

4671 (8) "Local zone administrator" means a person:

4672 (a) designated by the governing authority of the county or municipal applicant as the
4673 local zone administrator in an enterprise zone application; and

4674 (b) approved by the office as the local zone administrator.

4675 (9) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or
4676 trust may claim:

4677 (a) as provided by statute; and

4678 (b) regardless of whether, for the taxable year for which the claimant, estate, or trust
4679 claims the tax credit, the claimant, estate, or trust has a tax liability under:

4680 (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

4681 (ii) Title 59, Chapter 10, Individual Income Tax Act.

4682 (10) "Targeted business income tax credit" means a refundable tax credit available
4683 under Section [~~63M-1-504~~] [63N-2-305](#).

4684 (11) "Targeted business income tax credit eligibility form" means a document provided
4685 annually to the business applicant by the office that complies with the requirements of
4686 Subsection [~~63M-1-504~~] [63N-2-305](#)(8).

4687 (12) "Trust" means a nonresident trust or a resident trust.

4688 Section 91. Section **63N-2-303**, which is renumbered from Section 63M-1-502 is
4689 renumbered and amended to read:

4690 ~~[63M-1-502]~~. **63N-2-303. Rulemaking authority.**

4691 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and for
4692 purposes of this [section] part, the office shall make rules:

4693 (1) to determine what constitutes:

4694 (a) substantial new employment;

4695 (b) new capital development; and

4696 (c) a project; and

4697 (2) to establish a formula for determining the allocated cap amount for each business
4698 applicant.

4699 Section 92. Section **63N-2-304**, which is renumbered from Section 63M-1-503 is
4700 renumbered and amended to read:

4701 ~~[63M-1-503]~~. **63N-2-304. Application for targeted business income tax**
4702 **credit.**

4703 (1) (a) For taxable years beginning on or after January 1, 2002, a business applicant
4704 may elect to claim a targeted business income tax credit available under Section [~~63M-1-504~~]
4705 [63N-2-305](#) if the business applicant:

4706 (i) is located in:

4707 (A) an enterprise zone; and

4708 (B) a county with:

- 4709 (I) a population of less than 25,000; and
- 4710 (II) an unemployment rate that for six months or more of each calendar year is at least
- 4711 one percentage point higher than the state average;
- 4712 (ii) meets the requirements of Section [~~63M-1-412~~] [63N-2-212](#);
- 4713 (iii) provides:
- 4714 (A) a community investment project within the enterprise zone; and
- 4715 (B) a portion of the community investment project during each taxable year for which
- 4716 the business applicant claims the targeted business tax incentive; and
- 4717 (iv) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, is
- 4718 not engaged in the following, as defined by the State Tax Commission by rule:
- 4719 (A) construction;
- 4720 (B) retail trade; or
- 4721 (C) public utility activities.
- 4722 (b) For a taxable year for which a business applicant claims a targeted business income
- 4723 tax credit available under this part, the business applicant may not claim or carry forward a tax
- 4724 credit available under Section [59-7-610](#), [59-10-1007](#), or [~~63M-1-413~~] [63N-2-213](#).
- 4725 (2) (a) A business applicant seeking to claim a targeted business income tax credit
- 4726 under this part shall file an application as provided in Subsection (2)(b) with the local zone
- 4727 administrator by no later than June 1 of the year in which the business applicant is seeking to
- 4728 claim a targeted business income tax credit.
- 4729 (b) The application described in Subsection (2)(a) shall include:
- 4730 (i) any documentation required by the local zone administrator to demonstrate that the
- 4731 business applicant meets the requirements of Subsection (1);
- 4732 (ii) a plan developed by the business applicant that outlines:
- 4733 (A) if the community investment project includes substantial new employment, the
- 4734 projected number and anticipated wage level of the jobs that the business applicant plans to
- 4735 create as the basis for qualifying for a targeted business income tax credit;
- 4736 (B) if the community investment project includes new capital development, a
- 4737 description of the capital development the business applicant plans to make as the basis for
- 4738 qualifying for a targeted business income tax credit; and
- 4739 (C) a description of how the business applicant's plan coordinates with:

4740 (I) the goals of the enterprise zone in which the business applicant is providing a
4741 community investment project; and

4742 (II) the overall economic development goals of the county or municipality in which the
4743 business applicant is providing a community investment project; and

4744 (iii) any additional information required by the local zone administrator.

4745 (3) (a) The local zone administrator shall:

4746 (i) evaluate an application filed under Subsection (2); and

4747 (ii) determine whether the business applicant is eligible for a targeted business income
4748 tax credit.

4749 (b) If the local zone administrator determines that the business applicant is eligible for
4750 a targeted business income tax credit, the local zone administrator shall:

4751 (i) certify that the business applicant is eligible for the targeted business income tax
4752 credit;

4753 (ii) structure the targeted business income tax credit for the business applicant in
4754 accordance with Section [~~63M-1-504~~] [63N-2-305](#); and

4755 (iii) monitor a business applicant to ensure compliance with this section.

4756 (4) A local zone administrator shall report to the office by no later than June 30 of each
4757 year:

4758 (a) (i) any application approved by the local zone administrator during the last fiscal
4759 year; and

4760 (ii) the information established in Subsections [~~63M-1-504~~] [63N-2-305](#)(4)(a) through
4761 (d) for each new business applicant; and

4762 (b) (i) the status of any existing business applicants that the local zone administrator
4763 monitors; and

4764 (ii) any information required by the office to determine the status of an existing
4765 business applicant.

4766 (5) (a) By July 15 of each year, the department shall notify the local zone administrator
4767 of the allocated cap amount that each business applicant that the local zone administrator
4768 monitors is eligible to claim.

4769 (b) By September 15 of each year, the local zone administrator shall notify, in writing,
4770 each business applicant that the local zone administrator monitors of the allocated cap amount

4771 determined by the office under Subsection (5)(a) that the business applicant is eligible to claim
4772 for a taxable year.

4773 Section 93. Section **63N-2-305**, which is renumbered from Section 63M-1-504 is
4774 renumbered and amended to read:

4775 ~~[63M-1-504]~~. **63N-2-305. Targeted business income tax credit structure --**
4776 **Duties of the local zone administrator -- Duties of the State Tax Commission.**

4777 (1) [~~For taxable years beginning on or after January 1, 2002, a~~] A business applicant
4778 that is certified under Subsection [~~63M-1-503~~] 63N-2-304(3) and issued a targeted business tax
4779 credit eligibility form by the office under Subsection (8) may claim a refundable tax credit:

4780 (a) against the business applicant's tax liability under:

4781 (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

4782 (ii) Title 59, Chapter 10, Individual Income Tax Act; and

4783 (b) subject to requirements and limitations provided by this part.

4784 (2) The total amount of the targeted business income tax credits allowed under this part
4785 for all business applicants may not exceed \$300,000 in any fiscal year.

4786 (3) (a) A targeted business income tax credit allowed under this part for each
4787 community investment project provided by a business applicant may not:

4788 (i) be claimed by a business applicant for more than seven consecutive taxable years
4789 from the date the business applicant first qualifies for a targeted business income tax credit on
4790 the basis of a community investment project;

4791 (ii) be carried forward or carried back;

4792 (iii) exceed \$100,000 in total amount for the community investment project period
4793 during which the business applicant is eligible to claim a targeted business income tax credit;

4794 or

4795 (iv) exceed in any year that the targeted business income tax credit is claimed the lesser
4796 of:

4797 (A) 50% of the maximum amount allowed by the local zone administrator; or

4798 (B) the allocated cap amount determined by the office under Subsection [~~63M-1-503~~]
4799 63N-2-304(5).

4800 (b) A business applicant may apply to the local zone administrator to claim a targeted
4801 business income tax credit allowed under this part for each community investment project

4802 provided by the business applicant as the basis for its eligibility for a targeted business income
4803 tax credit.

4804 (4) Subject to other provisions of this section, the local zone administrator shall
4805 establish for each business applicant that qualifies for a targeted business income tax credit:

4806 (a) criteria for maintaining eligibility for the targeted business income tax credit that
4807 are reasonably related to the community investment project that is the basis for the business
4808 applicant's targeted business income tax credit;

4809 (b) the maximum amount of the targeted business income tax credit the business
4810 applicant is allowed for the community investment project period;

4811 (c) the time period over which the total amount of the targeted business income tax
4812 credit may be claimed;

4813 (d) the maximum amount of the targeted business income tax credit that the business
4814 applicant will be allowed to claim each year; and

4815 (e) requirements for a business applicant to report to the local zone administrator
4816 specifying:

4817 (i) the frequency of the business applicant's reports to the local zone administrator,
4818 which shall be made at least quarterly; and

4819 (ii) the information needed by the local zone administrator to monitor the business
4820 applicant's compliance with this Subsection (4) or Section [~~63M-1-503~~] 63N-2-304 that shall
4821 be included in the report.

4822 (5) In accordance with Subsection (4)(e), a business applicant allowed a targeted
4823 business income tax credit under this part shall report to the local zone administrator.

4824 (6) The amount of a targeted business income tax credit that a business applicant is
4825 allowed to claim for a taxable year shall be reduced by 25% for each quarter in which the office
4826 or the local zone administrator determines that the business applicant has failed to comply with
4827 a requirement of Subsection (3) or Section [~~63M-1-503~~] 63N-2-304.

4828 (7) The office or local zone administrator may audit a business applicant to ensure:

4829 (a) eligibility for a targeted business income tax credit; or

4830 (b) compliance with Subsection (3) or Section [~~63M-1-503~~] 63N-2-304.

4831 (8) The office shall issue a targeted business income tax credit eligibility form in a
4832 form jointly developed by the State Tax Commission and the office no later than 30 days after

4833 the last day of the business applicant's taxable year showing:

4834 (a) the maximum amount of the targeted business income tax credit that the business
4835 applicant is eligible for that taxable year;

4836 (b) any reductions in the maximum amount of the targeted business income tax credit
4837 because of failure to comply with a requirement of Subsection (3) or Section [~~63M-1-503~~]
4838 63N-2-304;

4839 (c) the allocated cap amount that the business applicant may claim for that taxable
4840 year; and

4841 (d) the actual amount of the targeted business income tax credit that the business
4842 applicant may claim for that taxable year.

4843 (9) (a) A business applicant shall retain the targeted business income tax credit
4844 eligibility form provided by the office under this Subsection (9).

4845 (b) The State Tax Commission may audit a business applicant to ensure:

4846 (i) eligibility for a targeted business income tax credit; or

4847 (ii) compliance with Subsection (3) or Section [~~63M-1-503~~] 63N-2-304.

4848 Section 94. Section **63N-2-401**, which is renumbered from Section 63M-1-1101 is
4849 renumbered and amended to read:

4850 **Part 4. Recycling Market Development Zone Act**

4851 [~~63M-1-1101~~]. **63N-2-401. Title.**

4852 This part is known as the "Recycling Market Development Zone Act."

4853 Section 95. Section **63N-2-402**, which is renumbered from Section 63M-1-1102 is
4854 renumbered and amended to read:

4855 [~~63M-1-1102~~]. **63N-2-402. Definitions.**

4856 As used in this part:

4857 (1) "Composting" means the controlled decay of landscape waste or sewage sludge and
4858 organic industrial waste, or a mixture of these, by the action of bacteria, fungi, molds, and other
4859 organisms.

4860 (2) "Postconsumer waste material" means any product generated by a business or
4861 consumer that has served its intended end use, and that has been separated from solid waste for
4862 the purposes of collection, recycling, and disposition and that does not include secondary waste
4863 material.

4864 (3) (a) "Recovered materials" means waste materials and by-products that have been
4865 recovered or diverted from solid waste.

4866 (b) "Recovered materials" does not include those materials and by-products generated
4867 from, and commonly reused within, an original manufacturing process.

4868 (4) (a) "Recycling" means the diversion of materials from the solid waste stream and
4869 the beneficial use of the materials and includes a series of activities by which materials that
4870 would become or otherwise remain waste are diverted from the waste stream for collection,
4871 separation, and processing, and are used as raw materials or feedstocks in lieu of or in addition
4872 to virgin materials in the manufacture of goods sold or distributed in commerce or the reuse of
4873 the materials as substitutes for goods made from virgin materials.

4874 (b) "Recycling" does not include burning municipal solid waste for energy recovery.

4875 (5) "Recycling market development zone" or "zone" means an area designated by the
4876 office as meeting the requirements of this part.

4877 (6) (a) "Secondary waste material" means industrial by-products that go to disposal
4878 facilities and waste generated after completion of a manufacturing process.

4879 (b) "Secondary waste material" does not include internally generated scrap commonly
4880 returned to industrial or manufacturing processes, such as home scrap and mill broke.

4881 (7) "State tax incentives," "tax incentives," or "tax benefits" means the nonrefundable
4882 tax credits available under Sections [59-7-608](#) and [59-10-1007](#).

4883 Section 96. Section **63N-2-403**, which is renumbered from Section 63M-1-1103 is
4884 renumbered and amended to read:

4885 **~~63M-1-1103~~. 63N-2-403. Duties of the office.**

4886 The office shall:

4887 (1) facilitate recycling development zones through state support of county incentives
4888 which encourage development of manufacturing enterprises that use recycling materials
4889 currently collected;

4890 (2) evaluate an application from a county or municipality executive authority to be
4891 designated as a recycling market development zone and determine if the county or municipality
4892 qualifies for that designation;

4893 (3) provide technical assistance to municipalities and counties in developing
4894 applications for designation as a recycling market development zone;

4895 (4) assist counties and municipalities designated as recycling market development
4896 zones in obtaining assistance from the federal government and agencies of the state;

4897 (5) assist a qualified business in obtaining the benefits of an incentive or inducement
4898 program authorized by this part;

4899 (6) monitor the implementation and operation of this part and conduct a continuing
4900 evaluation of the progress made in the recycling market development zone; and

4901 (7) include in the annual written report described in Section [~~63M-1-206~~] 63N-2-301,
4902 an evaluation of the effectiveness of the program and recommendations for legislation.

4903 Section 97. Section **63N-2-404**, which is renumbered from Section 63M-1-1104 is
4904 renumbered and amended to read:

4905 ~~[63M-1-1104]~~. **63N-2-404. Criteria for recycling market development zone**
4906 **-- Application process and fees.**

4907 (1) An area may be designated as a recycling market development zone only if:

4908 (a) the county or municipality agrees to make a qualifying local contribution under
4909 Section [~~63M-1-1105~~] 63N-2-405; and

4910 (b) the county or municipality provides for postconsumer waste collection for recycling
4911 within the county or municipality.

4912 (2) The executive authority of any municipality or county desiring to be designated as a
4913 recycling market development zone shall:

4914 (a) obtain the written approval of the municipality or county's legislative body; and

4915 (b) file an application with the office demonstrating the county or municipality meets
4916 the requirements of this part.

4917 (3) The application shall be in a form prescribed by the office, and shall include:

4918 (a) a plan developed by the county or municipality that identifies local contributions
4919 meeting the requirements of Section [~~63M-1-1105~~] 63N-2-405;

4920 (b) a county or municipality development plan that outlines:

4921 (i) the specific investment or development reasonably expected to take place;

4922 (ii) any commitments obtained from businesses to participate, and in what capacities
4923 regarding recycling markets;

4924 (iii) the county's or municipality's economic development plan and demonstration of
4925 coordination between the zone and the county or municipality in overall development goals;

4926 (iv) zoning requirements demonstrating that sufficient portions of the proposed zone
4927 area are zoned as appropriate for the development of commercial, industrial, or manufacturing
4928 businesses;

4929 (v) the county's or municipality's long-term waste management plan and evidence that
4930 the zone will be adequately served by the plan; and

4931 (vi) the county or municipality postconsumer waste collection infrastructure;

4932 (c) the county's or municipality's proposed means of assessing the effectiveness of the
4933 development plan or other programs implemented within the zone;

4934 (d) state whether within the zone either of the following will be established:

4935 (i) commercial manufacturing or industrial processes that will produce end products
4936 that consist of not less than 50% recovered materials, of which not less than 25% is
4937 postconsumer waste material; or

4938 (ii) commercial composting;

4939 (e) any additional information required by the office; and

4940 (f) any additional information the county or municipality considers relevant to its
4941 designation as a recycling market development zone.

4942 (4) A county or municipality applying for designation as a recycling market
4943 development zone shall pay to the office an application fee determined under Section
4944 [63J-1-504](#).

4945 Section 98. Section **63N-2-405**, which is renumbered from Section 63M-1-1105 is
4946 renumbered and amended to read:

4947 **~~63M-1-1105~~. 63N-2-405. Qualifying local contributions.**

4948 Qualifying local contributions to the recycling market development zone may vary
4949 depending on available resources, and may include:

4950 (1) simplified procedures for obtaining permits;

4951 (2) dedication of available government grants;

4952 (3) waiver of business license or permit fees;

4953 (4) infrastructure improvements;

4954 (5) private contributions;

4955 (6) utility rate concessions;

4956 (7) suspension or relaxation of locally originated zoning laws or general plans; and

4957 (8) other proposed local contributions as the office finds promote the purposes of this
4958 part.

4959 Section 99. Section **63N-2-406**, which is renumbered from Section 63M-1-1106 is
4960 renumbered and amended to read:

4961 **[63M-1-1106]. 63N-2-406. Eligibility review.**

4962 (1) The office shall:

4963 (a) review and evaluate an application submitted under Section [63M-1-1104]
4964 63N-2-404; and

4965 (b) determine whether the municipality or county is eligible for designation as a
4966 recycling market development zone.

4967 (2) In designating recycling market development zones, the office shall consider:

4968 (a) whether the current waste management practices and conditions of the county or
4969 municipality are favorable to the development of postconsumer waste material markets;

4970 (b) whether the creation of the zone is necessary to assist in attracting private sector
4971 recycling investments to the area; and

4972 (c) the amount of available landfill capacity to serve the zone.

4973 Section 100. Section **63N-2-407**, which is renumbered from Section 63M-1-1107 is
4974 renumbered and amended to read:

4975 **[63M-1-1107]. 63N-2-407. Quarterly consideration.**

4976 The office shall take action quarterly on any application requesting designation as a
4977 recycling market development zone.

4978 Section 101. Section **63N-2-408**, which is renumbered from Section 63M-1-1108 is
4979 renumbered and amended to read:

4980 **[63M-1-1108]. 63N-2-408. Duration of designation.**

4981 A recycling market development zone designation ends five years from the date the
4982 office designates the area as a recycling market development zone, at the end of which the
4983 county or municipality may reapply for the designation.

4984 Section 102. Section **63N-2-409**, which is renumbered from Section 63M-1-1109 is
4985 renumbered and amended to read:

4986 **[63M-1-1109]. 63N-2-409. Revocation of designations.**

4987 (1) The office may revoke the designation of a recycling market development zone if

4988 no businesses utilize the tax incentives during any calendar year.

4989 (2) Before revocation of the zone, the office shall conduct a public hearing within a
4990 reasonable distance of the zone to determine reasons for inactivity and explore possible
4991 alternative actions.

4992 Section 103. Section **63N-2-410**, which is renumbered from Section 63M-1-1110 is
4993 renumbered and amended to read:

4994 ~~[63M-1-1110]~~. **63N-2-410**. **Recycling market development zone credit.**

4995 For a taxpayer within a recycling market development zone, there are allowed the
4996 nonrefundable credits against tax as provided by Sections [59-7-610](#) and [59-10-1007](#).

4997 Section 104. Section **63N-2-411**, which is renumbered from Section 63M-1-1111 is
4998 renumbered and amended to read:

4999 ~~[63M-1-1111]~~. **63N-2-411**. **Annual report.**

5000 (1) A county or municipality designated as a recycling market development zone shall
5001 report by no later than July 31 of each year to the office regarding the economic activity that
5002 has occurred in the zone following the designation.

5003 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5004 office may make rules providing for the form and content of the annual reports.

5005 Section 105. Section **63N-2-412**, which is renumbered from Section 63M-1-1112 is
5006 renumbered and amended to read:

5007 ~~[63M-1-1112]~~. **63N-2-412**. **Technology Commercialization and Innovation**
5008 **Program.**

5009 In accordance with ~~[Part 6]~~ Chapter 12, Part 1, State Advisory Council on Science and
5010 Technology, the office may award grants to the Technology Commercialization and Innovation
5011 Program, as defined by Section ~~[63M-1-703]~~ 63N-3-203, to fund development of new
5012 technology for recycling if the program funded is a cooperative effort between the Technology
5013 Commercialization and Innovation Program and one or more recycling market development
5014 zones created under this part.

5015 Section 106. Section **63N-2-501**, which is renumbered from Section 63M-1-3401 is
5016 renumbered and amended to read:

Part 5. New Convention Facility Development Incentives

5017 ~~[63M-1-3401]~~. **63N-2-501**. **Title.**

5019 This part is known as ~~[the]~~ "New Convention Facility Development ~~[Incentive Act]~~
5020 Incentives."

5021 Section 107. Section **63N-2-502**, which is renumbered from Section 63M-1-3402 is
5022 renumbered and amended to read:

5023 ~~[63M-1-3402].~~ **63N-2-502. Definitions.**

5024 As used in this part:

5025 (1) "Agreement" means an agreement described in Section ~~[63M-1-3403]~~ 63N-2-503.

5026 (2) "Commission" means the Utah State Tax Commission.

5027 (3) "Community development and renewal agency" has the same meaning as defined in
5028 Section 17C-1-102.

5029 (4) "Eligibility period" means:

5030 (a) the period that:

5031 (i) begins the date construction of a qualified hotel begins; and

5032 (ii) ends:

5033 (A) for purposes of the state portion, 20 years after the date of initial occupancy of that
5034 qualified hotel; or

5035 (B) for purposes of the local portion, 25 years after the date of initial occupancy of that
5036 hotel; or

5037 (b) as provided in an agreement between the office and a qualified hotel owner or host
5038 local government, a period that:

5039 (i) begins no earlier than the date construction of a qualified hotel begins; and

5040 (ii) is shorter than the period described in Subsection (4)(a).

5041 (5) "Endorsement letter" means a letter:

5042 (a) from the county in which a qualified hotel is located or is proposed to be located;

5043 (b) signed by the county executive; and

5044 (c) expressing the county's endorsement of a developer of a qualified hotel as meeting
5045 all the county's criteria for receiving the county's endorsement.

5046 (6) "Host agency" means the community development and renewal agency of the host
5047 local government.

5048 (7) "Host local government" means:

5049 (a) a county that enters into an agreement with the office for the construction of a

5050 qualified hotel within the unincorporated area of the county; or

5051 (b) a city or town that enters into an agreement with the office for the construction of a
5052 qualified hotel within the boundary of the city or town.

5053 (8) "Hotel property" means a qualified hotel and any property that is included in the
5054 same development as the qualified hotel, including convention, exhibit, and meeting space,
5055 retail shops, restaurants, parking, and other ancillary facilities and amenities.

5056 (9) "Incremental property tax revenue" means the amount of property tax revenue
5057 generated from hotel property that equals the difference between:

5058 (a) the amount of property tax revenue generated in any tax year by all taxing entities
5059 from hotel property, using the current assessed value of the hotel property; and

5060 (b) the amount of property tax revenue that would be generated that tax year by all
5061 taxing entities from hotel property, using a base taxable value of the hotel property as
5062 established by the county in which the hotel property is located.

5063 (10) "Local portion" means:

5064 (a) the portion of new tax revenue that is not the state portion; and

5065 (b) incremental property tax revenue.

5066 (11) "New tax revenue" means:

5067 (a) all new revenue generated from a tax under Title 59, Chapter 12, Sales and Use Tax
5068 Act, on transactions occurring during the eligibility period as a result of the construction of the
5069 hotel property, including purchases made by a qualified hotel owner and its subcontractors;

5070 (b) all new revenue generated from a tax under Title 59, Chapter 12, Sales and Use Tax
5071 Act, on transactions occurring on hotel property during the eligibility period; and

5072 (c) all new revenue generated from a tax under Title 59, Chapter 12, Sales and Use Tax
5073 Act, on transactions by a third-party seller occurring other than on hotel property during the
5074 eligibility period, if:

5075 (i) the transaction is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act;
5076 and

5077 (ii) the third-party seller voluntarily consents to the disclosure of information to the
5078 office, as provided in Subsection [~~63M-1-3405~~] 63N-2-505(1)(b)(i)(E).

5079 (12) "Public infrastructure" means:

5080 (a) water, sewer, storm drainage, electrical, telecommunications, and other similar

- 5081 systems and lines;
- 5082 (b) streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, and public
5083 transportation facilities; and
- 5084 (c) other buildings, facilities, infrastructure, and improvements that benefit the public.
- 5085 (13) "Qualified hotel" means a full-service hotel development constructed in the state
5086 on or after July 1, 2014 that:
- 5087 (a) requires a significant capital investment;
- 5088 (b) includes at least 85 square feet of convention, exhibit, and meeting space per guest
5089 room; and
- 5090 (c) is located within 1,000 feet of a convention center that contains at least 500,000
5091 square feet of convention, exhibit, and meeting space.
- 5092 (14) "Qualified hotel owner" means a person who owns a qualified hotel.
- 5093 (15) "Review committee" means the independent review committee established under
5094 Section [~~63M-1-3404~~] [63N-2-205](#).
- 5095 (16) "Significant capital investment" means an amount of at least \$200,000,000.
- 5096 (17) "State portion" means the portion of new tax revenue that is attributable to a tax
5097 imposed under Subsection [59-12-103\(2\)\(a\)\(i\)\(A\)](#).
- 5098 (18) "Tax credit" means a tax credit under Section [59-7-616](#) or [59-10-1110](#).
- 5099 (19) "Tax credit applicant" means a qualified hotel owner or host local government
5100 that:
- 5101 (a) has entered into an agreement with the office; and
- 5102 (b) pursuant to that agreement, submits an application for the issuance of a tax credit
5103 certificate.
- 5104 (20) "Tax credit certificate" means a certificate issued by the office that includes:
- 5105 (a) the name of the tax credit recipient;
- 5106 (b) the tax credit recipient's taxpayer identification number;
- 5107 (c) the amount of the tax credit authorized under this part for a taxable year; and
- 5108 (d) other information as determined by the office.
- 5109 (21) "Tax credit recipient" means a tax credit applicant that has been issued a tax credit
5110 certificate.
- 5111 (22) "Third-party seller" means a person who is a seller in a transaction:

- 5112 (a) occurring other than on hotel property;
- 5113 (b) that is:
- 5114 (i) the sale, rental, or lease of a room or of convention or exhibit space or other
- 5115 facilities on hotel property; or
- 5116 (ii) the sale of tangible personal property or a service that is part of a bundled
- 5117 transaction, as defined in Section 59-12-102, with a sale, rental, or lease described in
- 5118 Subsection (22)(b)(i); and
- 5119 (c) that is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act.
- 5120 Section 108. Section 63N-2-503, which is renumbered from Section 63M-1-3403 is
- 5121 renumbered and amended to read:

5122 ~~63M-1-3403~~. **63N-2-503. Agreement for development of new convention**
5123 **hotel -- Tax credit authorized -- Agreement requirements.**

5124 (1) The office, with the board's advice, may enter into an agreement with a qualified
5125 hotel owner or a host local government:

- 5126 (a) for the development of a qualified hotel; and
- 5127 (b) to authorize a tax credit:
 - 5128 (i) to the qualified hotel owner or host local government, but not both;
 - 5129 (ii) for a period not to exceed the eligibility period;
 - 5130 (iii) if:
 - 5131 (A) the county in which the qualified hotel is proposed to be located has issued an
 - 5132 endorsement letter endorsing the qualified hotel owner; and
 - 5133 (B) all applicable requirements of this part and the agreement are met; and
 - 5134 (iv) that is reduced by \$1,900,000 per year during the first two years of the eligibility
 - 5135 period, as described in Subsection (2)(c).

- 5136 (2) An agreement shall:
 - 5137 (a) specify the requirements for a tax credit recipient to qualify for a tax credit;
 - 5138 (b) require compliance with the terms of the endorsement letter issued by the county in
 - 5139 which the qualified hotel is proposed to be located;
 - 5140 (c) require the amount of a tax credit listed in a tax credit certificate issued during the
 - 5141 first two years of the eligibility period to be reduced by \$1,900,000 per year;
 - 5142 (d) with respect to the state portion of any tax credit that the tax credit recipient may

5143 receive during the eligibility period:

5144 (i) specify the maximum dollar amount that the tax credit recipient may receive,
5145 subject to a maximum of:

5146 (A) for any taxable year, the amount of the state portion of new tax revenue in that
5147 taxable year; and

5148 (B) \$75,000,000 in the aggregate for any tax credit recipient during an eligibility
5149 period, calculated as though the two \$1,900,000 reductions of the tax credit amount under
5150 Subsection (1)(b)(iv) had not occurred; and

5151 (ii) specify the maximum percentage of the state portion of new tax revenue that may
5152 be used in calculating a tax credit that a tax credit recipient may receive during the eligibility
5153 period for each taxable year and in the aggregate;

5154 (e) establish a shorter period of time than the period described in Subsection
5155 ~~[63M-1-3402]~~ 63N-2-502(5)(a) during which the tax credit recipient may claim a tax credit or
5156 that the host agency may be paid incremental property tax revenue, if the office and qualified
5157 hotel owner or host local government agree to a shorter period of time;

5158 (f) require the tax credit recipient to retain books and records supporting a claim for a
5159 tax credit as required by Section ~~59-1-1406~~;

5160 (g) allow the transfer of the agreement to a third party if the third party assumes all
5161 liabilities and responsibilities in the agreement;

5162 (h) limit the expenditure of funds received under a tax credit as provided in Section
5163 ~~[63M-1-3412]~~ 63N-2-512; and

5164 (i) require the tax credit recipient to submit to any audit the office considers
5165 appropriate for verification of any tax credit or claimed tax credit.

5166 Section 109. Section **63N-2-504**, which is renumbered from Section 63M-1-3404 is
5167 renumbered and amended to read:

5168 ~~[63M-1-3404]~~. **63N-2-504. Independent review committee.**

5169 (1) In accordance with rules adopted by the office under Section ~~[63M-1-3408]~~
5170 63N-2-508, the board shall establish a separate, independent review committee to:

5171 (a) review each initial tax credit application submitted under this part for compliance
5172 with the requirements of this part and the agreement; and

5173 (b) consult with the office, as provided in this part.

- 5174 (2) The review committee shall consist of:
- 5175 (a) one member appointed by the director to represent the office;
- 5176 (b) two members appointed by the mayor or chief executive of the county in which the
- 5177 qualified hotel is located or proposed to be located;
- 5178 (c) two members appointed by:
- 5179 (i) the mayor of the municipality in which the qualified hotel is located or proposed to
- 5180 be located, if the qualified hotel is located or proposed to be located within the boundary of a
- 5181 municipality; or
- 5182 (ii) the mayor or chief executive of the county in which the qualified hotel is located or
- 5183 proposed to be located, in addition to the two members appointed under Subsection (2)(b), if
- 5184 the qualified hotel is located or proposed to be located outside the boundary of a municipality;
- 5185 (d) an individual representing the hotel industry, appointed by the Utah Hotel and
- 5186 Lodging Association;
- 5187 (e) an individual representing the commercial development and construction industry,
- 5188 appointed by the president or chief executive officer of the local chamber of commerce;
- 5189 (f) an individual representing the convention and meeting planners industry, appointed
- 5190 by the president or chief executive officer of the local convention and visitors bureau; and
- 5191 (g) one member appointed by the board.
- 5192 (3) (a) A member serves an indeterminate term and may be removed from the review
- 5193 committee by the appointing authority at any time.
- 5194 (b) A vacancy may be filled in the same manner as an appointment under Subsection
- 5195 (2).
- 5196 (4) A member of the review committee may not be paid for serving on the review
- 5197 committee and may not receive per diem or expense reimbursement.
- 5198 (5) The office shall provide any necessary staff support to the review committee.
- 5199 Section 110. Section **63N-2-505**, which is renumbered from Section 63M-1-3405 is
- 5200 renumbered and amended to read:
- 5201 **~~[63M-1-3405]~~. 63N-2-505. Submission of written application for tax credit**
- 5202 **certificate -- Disclosure of tax returns and other information -- Determination of tax**
- 5203 **credit application.**
- 5204 (1) For each taxable year for which a tax credit applicant seeks the issuance of a tax

5205 credit certificate, the tax credit applicant shall submit to the office:

5206 (a) a written application for a tax credit certificate;

5207 (b) (i) for an application submitted by a qualified hotel owner:

5208 (A) a certification by the individual signing the application that the individual is duly

5209 authorized to sign the application on behalf of the qualified hotel owner;

5210 (B) documentation of the new tax revenue generated during the preceding year;

5211 (C) a document in which the qualified hotel owner expressly directs and authorizes the

5212 commission to disclose to the office the qualified hotel owner's tax returns and other

5213 information that would otherwise be subject to confidentiality under Section 59-1-403 or

5214 Section 6103, Internal Revenue Code;

5215 (D) a document in which the qualified hotel's direct vendors, lessees, or subcontractors,

5216 as applicable, expressly direct and authorize the commission to disclose to the office the tax

5217 returns and other information of those vendors, lessees, or subcontractors that would otherwise

5218 be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;

5219 (E) a document in which a third-party seller expressly and voluntarily directs and

5220 authorizes the commission to disclose to the office the third-party seller's tax returns and other

5221 information that would otherwise be subject to confidentiality under Section 59-1-403 or

5222 Section 6103, Internal Revenue Code; and

5223 (F) documentation verifying that the qualified hotel owner is in compliance with the

5224 terms of the agreement;

5225 (ii) for an application submitted by a host local government, documentation of the new

5226 tax revenue generated during the preceding year;

5227 (c) if the host local government intends to assign the tax credit sought in the tax credit

5228 application to a community development and renewal agency:

5229 (i) the taxpayer identification number of the community development and renewal

5230 agency; and

5231 (ii) a document signed by the governing body members of the community development

5232 and renewal agency that expressly directs and authorizes the commission to disclose to the

5233 office the agency's tax returns and other information that would otherwise be subject to

5234 confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

5235 (d) a statement provided by an independent certified public accountant, at the tax credit

5236 applicant's expense, attesting to the accuracy of the documentation of new tax revenue.

5237 (2) (a) The office shall submit to the commission the documents described in
5238 Subsections (1)(b)(i)(C), (D), and (E) and (1)(c)(ii) authorizing disclosure of the tax returns and
5239 other information.

5240 (b) Upon receipt of the documents described in Subsection (2)(a), the commission shall
5241 provide to the office the tax returns and other information described in those documents.

5242 (3) If the office determines that the tax returns and other information is inadequate to
5243 validate the issuance of a tax credit certificate, the office shall inform the tax credit applicant
5244 that the tax returns and other information were inadequate and request the tax credit applicant
5245 to submit additional documentation to validate the issuance of a tax credit certificate.

5246 (4) If the office determines that the returns and other information, including any
5247 additional documentation provided under Subsection (3), provide reasonable justification for
5248 the issuance of a tax credit certificate, the office shall:

5249 (a) determine the amount of the tax credit to be listed on the tax credit certificate;

5250 (b) issue a tax credit certificate to the tax credit applicant for the amount of that tax
5251 credit; and

5252 (c) provide a copy of the tax credit certificate to the commission.

5253 Section 111. Section **63N-2-506**, which is renumbered from Section 63M-1-3406 is
5254 renumbered and amended to read:

5255 ~~[63M-1-3406]~~. **63N-2-506. Effect of tax credit certificate -- Retaining tax**
5256 **credit certificate.**

5257 (1) A person may not claim a tax credit unless the office has issued the person a tax
5258 credit certificate.

5259 (2) A tax credit recipient may claim a tax credit in the amount of the tax credit stated in
5260 a tax credit certificate.

5261 (3) A tax credit recipient shall retain the tax credit certificate in accordance with the
5262 requirements of Section **59-1-1406** for retaining books and records.

5263 (4) The amount of a tax credit indicated on a tax credit certificate issued during the
5264 eligibility period may not exceed the amount of eligible new tax revenue generated during the
5265 taxable year preceding the taxable year for which the tax credit certificate is issued.

5266 Section 112. Section **63N-2-507**, which is renumbered from Section 63M-1-3407 is

5267 renumbered and amended to read:

5268 ~~[63M-1-3407].~~ 63N-2-507. **Assigning tax credit.**

5269 (1) A host local government that enters into an agreement with the office may, by
5270 resolution, assign a tax credit to a community development and renewal agency, in accordance
5271 with rules adopted by the office.

5272 (2) A host local government that adopts a resolution assigning a tax credit under
5273 Subsection (1) shall provide a copy of the resolution to the office and the commission.

5274 Section 113. Section **63N-2-508**, which is renumbered from Section 63M-1-3408 is
5275 renumbered and amended to read:

5276 ~~[63M-1-3408].~~ 63N-2-508. **Payment of incremental property tax revenue.**

5277 (1) (a) In accordance with rules adopted by the office, a host agency shall be paid
5278 incremental property tax revenue during the eligibility period.

5279 (b) Incremental property tax revenue may be used only for:

5280 (i) the purchase of or payment for, or reimbursement of a previous purchase of or
5281 payment for:

5282 (A) tangible personal property used in the construction of convention, exhibit, or
5283 meeting space on hotel property;

5284 (B) tangible personal property that, upon the construction of hotel property, becomes
5285 affixed to hotel property as real property; or

5286 (C) any labor and overhead costs associated with the construction described in
5287 Subsections (1)(b)(i)(A) and (B);

5288 (ii) public infrastructure; and

5289 (iii) other purposes as approved by the host agency.

5290 (2) A county that collects property tax on hotel property during the eligibility period
5291 shall pay and distribute to the host agency the incremental property tax revenue that the host
5292 agency is entitled to collect under Subsection (1), in the manner and at the time provided in
5293 Section [59-2-1365](#).

5294 Section 114. Section **63N-2-509**, which is renumbered from Section 63M-1-3409 is
5295 renumbered and amended to read:

5296 ~~[63M-1-3409].~~ 63N-2-509. **Rulemaking authority -- Requirements for rules.**

5297 (1) The office shall, in accordance with Title 63G, Chapter 3, Utah Administrative

5298 Rulemaking Act, make rules to carry out its responsibilities under this part and to implement
5299 the provisions of this part.

5300 (2) The rules the office makes under Subsection (1) shall:

5301 (a) establish, consistent with this part, the conditions that a tax credit applicant is
5302 required to meet to qualify for a tax credit;

5303 (b) require that a significant capital investment be made in the development of the
5304 hotel property;

5305 (c) require a tax credit applicant to meet all applicable requirements in order to receive
5306 a tax credit certificate;

5307 (d) require that a qualified hotel owner meet the county's requirements to receive an
5308 endorsement letter; and

5309 (e) provide for the establishment of an independent review committee, in accordance
5310 with the requirements of Section [~~63M-1-3404~~] 63N-2-504.

5311 Section 115. Section **63N-2-510**, which is renumbered from Section 63M-1-3410 is
5312 renumbered and amended to read:

5313 ~~[63M-1-3410]~~. **63N-2-510. Report by office.**

5314 (1) [~~Before November 1 of each year, the~~] The office shall [submit a written report to
5315 ~~the Economic Development and Workforce Services Interim Committee of the Legislature, the~~
5316 ~~Governor's Office of Management and Budget, and the Office of the Legislative Fiscal Analyst~~
5317 ~~describing] include the following information in the office's annual written report described in~~
5318 Section ~~63N-1-301~~:

5319 (a) the state's success in attracting new conventions and corresponding new state
5320 revenue;

5321 (b) the estimated amount of tax credit commitments and the associated calculation
5322 made by the office and the period of time over which tax credits are expected to be paid;

5323 (c) the economic impact on the state related to generating new state revenue and
5324 providing tax credits; and

5325 (d) the estimated and actual costs and economic benefits of the tax credit commitments
5326 that the office made.

5327 [~~(2) The office shall post the annual report under Subsection (1) on its website and on a~~
5328 ~~state website.]~~

5329 [(3)] (2) Upon the commencement of the construction of a qualified hotel, the office
5330 shall send a written notice to the Division of Finance:

5331 (a) referring to the two annual deposits required under Subsection 59-12-103(14); and

5332 (b) notifying the Division of Finance that construction on the qualified hotel has begun.

5333 Section 116. Section **63N-2-511**, which is renumbered from Section 63M-1-3411 is
5334 renumbered and amended to read:

5335 ~~[63M-1-3411].~~ **63N-2-511. Stay Another Day and Bounce Back Fund.**

5336 (1) As used in this section:

5337 (a) "Bounce back fund" means the Stay Another Day and Bounce Back Fund, created
5338 in Subsection (2).

5339 (b) "Tourism board" means the Board of Tourism Development created in Section
5340 **63M-1-1401**.

5341 (2) There is created an expendable special revenue fund known as the Stay Another
5342 Day and Bounce Back Fund.

5343 (3) The bounce back fund shall:

5344 (a) be administered by the tourism board;

5345 (b) earn interest; and

5346 (c) be funded by:

5347 (i) annual payments under Section 17-31-9 from the county in which a qualified hotel
5348 is located;

5349 (ii) money transferred to the bounce back fund under Section [~~63M-1-3412~~]
5350 **63N-2-512**; and

5351 (iii) any money that the Legislature chooses to appropriate to the bounce back fund.

5352 (4) Interest earned by the bounce back fund shall be deposited into the bounce back
5353 fund.

5354 (5) The tourism board may use money in the bounce back fund to pay for a tourism
5355 program of advertising, marketing, and branding of the state, taking into consideration the
5356 long-term strategic plan, economic trends, and opportunities for tourism development on a
5357 statewide basis.

5358 Section 117. Section **63N-2-512**, which is renumbered from Section 63M-1-3412 is
5359 renumbered and amended to read:

5360 ~~[63M-1-3412]~~. 63N-2-512. Hotel Impact Mitigation Fund.

5361 (1) As used in this section:

5362 (a) "Affected hotel" means a hotel built in the state before July 1, 2014.

5363 (b) "Direct losses" means affected hotels' losses of hotel guest business attributable to
5364 the qualified hotel room supply being added to the market in the state.

5365 (c) "Mitigation fund" means the Hotel Impact Mitigation Fund, created in Subsection
5366 (2).

5367 (2) There is created an expendable special revenue fund known as the Hotel Impact
5368 Mitigation Fund.

5369 (3) The mitigation fund shall:

5370 (a) be administered by the board;

5371 (b) earn interest; and

5372 (c) be funded by:

5373 (i) payments required to be deposited into the mitigation fund by the Division of
5374 Finance under Subsection [59-12-103](#)(14);

5375 (ii) money required to be deposited into the mitigation fund under Subsection
5376 [17-31-9](#)(2) by the county in which a qualified hotel is located; and

5377 (iii) any money deposited into the mitigation fund under Subsection (6).

5378 (4) Interest earned by the mitigation fund shall be deposited into the mitigation fund.

5379 (5) (a) In accordance with office rules, the board shall annually pay up to \$2,100,000 of
5380 money in the mitigation fund:

5381 (i) to affected hotels;

5382 (ii) for four consecutive years, beginning 12 months after the date of initial occupancy
5383 of the qualified hotel occurs; and

5384 (iii) to mitigate direct losses.

5385 (b) (i) If the amount the board pays under Subsection (5)(a) in any year is less than
5386 \$2,100,000, the board shall pay to the Stay Another Day and Bounce Back Fund, created in
5387 Section ~~[63M-1-3411]~~ 63N-2-511, the difference between \$2,100,000 and the amount paid
5388 under Subsection (5)(a).

5389 (ii) The board shall make any required payment under Subsection (5)(b)(i) within 90
5390 days after the end of the year for which a determination is made of how much the board is

5391 required to pay to affected hotels under Subsection (5)(a).

5392 (6) A host local government or qualified hotel owner may make payments to the
5393 Division of Finance for deposit into the mitigation fund.

5394 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5395 office shall, in consultation with the Utah Hotel and Lodging Association and the county in
5396 which the qualified hotel is located, make rules establishing procedures and criteria governing
5397 payments under Subsection (5)(a) to affected hotels.

5398 Section 118. Section **63N-2-513**, which is renumbered from Section 63M-1-3413 is
5399 renumbered and amended to read:

5400 ~~[63M-1-3413]~~. **63N-2-513. Authorized expenditures of tax credit money.**

5401 (1) A tax credit recipient may spend money received as a direct result of the state
5402 portion of a tax credit only for the purchase of or payment for, or reimbursement of a previous
5403 purchase of or payment for:

5404 (a) tangible personal property used in the construction of convention, exhibit, or
5405 meeting space on hotel property;

5406 (b) tangible personal property that, upon the construction of hotel property, becomes
5407 affixed to hotel property as real property; or

5408 (c) any labor and overhead costs associated with the construction described in
5409 Subsections (1)(a) and (b).

5410 (2) A tax credit recipient may spend money received as a direct result of the local
5411 portion of a tax credit only for:

5412 (a) a purpose described in Subsection (1);

5413 (b) public infrastructure; and

5414 (c) other purposes as approved by the host agency.

5415 Section 119. Section **63N-2-601**, which is renumbered from Section 63M-1-3501 is
5416 renumbered and amended to read:

5417 **Part 6. Utah Small Business Jobs Act**

5418 ~~[63M-1-3501]~~. **63N-2-601. Title.**

5419 This part is known as the "Utah Small Business Jobs Act."

5420 Section 120. Section **63N-2-602**, which is renumbered from Section 63M-1-3502 is
5421 renumbered and amended to read:

5422 ~~[63M-1-3502]~~. 63N-2-602. Definitions.

5423 As used in this part:

5424 (1) "Affiliate" means an entity that directly, or indirectly through one or more
5425 intermediaries, controls, or is controlled by, or is under common control with, the entity
5426 specified.

5427 (2) "Applicable percentage" means:

5428 (a) 0% for the first two credit allowance dates;

5429 (b) 12% for the next three credit allowance dates; and

5430 (c) 11% for the next two credit allowance dates.

5431 (3) "Community Development Financial Institutions Fund" means the fund created in
5432 12 U.S.C. Sec. 4703.

5433 (4) "Credit allowance date" means with respect to a qualified equity investment:

5434 (a) the date on which the qualified equity investment is initially made; and

5435 (b) each of the six anniversary dates of the date described in Subsection (4)(a).

5436 (5) "Federal New Markets Tax Credit Program" means the program created under
5437 Section 45D, Internal Revenue Code.

5438 (6) "Long-term debt security" means a debt instrument issued by a qualified
5439 community development entity:

5440 (a) with an original maturity date of at least seven years from the date of its issuance;
5441 and

5442 (b) with no repayment, amortization, or prepayment features before its original
5443 maturity date.

5444 (7) "Purchase price" means the amount paid to the qualified community development
5445 entity that issues a qualified equity investment for the qualified equity investment that may not
5446 exceed the amount of qualified equity investment authority certified pursuant to Section
5447 ~~[63M-1-3503]~~ 63N-2-603.

5448 (8) (a) "Qualified active low-income community business" is as defined in Section
5449 45D, Internal Revenue Code, and 26 C.F.R. Sec. 1.45D-1, but is limited to those businesses
5450 meeting the United States Small Business Administration size eligibility standards established
5451 in 13 C.F.R. Sec. 121.101-201 at the time the qualified low-income community investment is
5452 made.

5453 (b) Notwithstanding Subsection (8)(a), "qualified active low-income community
5454 business" does not include a business that derives or projects to derive 15% or more of its
5455 annual revenue from the rental or sale of real estate, unless the business is controlled by or
5456 under common control with another business if the second business:

5457 (i) does not derive or project to derive 15% or more of its annual revenue from the
5458 rental or sale of real estate; and

5459 (ii) is the primary tenant of the real estate leased from the initial business.

5460 (c) A business is considered a qualified active low-income community business for the
5461 duration of the qualified community development entity's investment in, or loan to, the
5462 business if the qualified community development entity reasonably expects, at the time it
5463 makes the investment or loan, that the business will continue to satisfy the requirements for
5464 being a qualified active low-income community business, other than the United States Small
5465 Business Administration size standards, throughout the entire period of the investment or loan.

5466 (9) (a) "Qualified community development entity" is as defined in Section 45D,
5467 Internal Revenue Code, if the entity has entered into an allocation agreement with the
5468 Community Development Financial Institutions Fund of the United States Treasury
5469 Department with respect to credits authorized by Section 45D, Internal Revenue Code, that
5470 includes Utah within the service area set forth in the allocation agreement.

5471 (b) An entity may not be considered to be controlled by another entity solely as a result
5472 of the entity having made a direct or indirect equity investment in the other entity that earns tax
5473 credits under Section 45D, Internal Revenue Code, or in a similar state program.

5474 (c) "Qualified community development entity" includes a subsidiary community
5475 development entity of a qualified community development entity.

5476 (10) (a) "Qualified equity investment" means an equity investment in, or long-term
5477 debt security issued by, a qualified community development entity that:

5478 (i) is acquired on or after September 2, 2014, at its original issuance solely in exchange
5479 for cash;

5480 (ii) has at least 85% of its cash purchase price used by the qualified community
5481 development entity to make qualified low-income community investments in qualified active
5482 low-income community businesses located in this state by the first anniversary of the initial
5483 credit allowance date; and

5484 (iii) is designated by the qualified community development entity as a qualified equity
5485 investment and is certified by the office pursuant to Section [~~63M-1-3503~~] 63N-2-603.

5486 (b) Notwithstanding Subsection (10)(a), "qualified equity investment" includes a
5487 qualified equity investment that does not meet the provisions of Subsection (10)(a) if the
5488 investment was a qualified equity investment in the hands of a prior holder.

5489 (11) "Qualified low-income community investment" means a capital or equity
5490 investment in, or a loan to, a qualified active low-income community business, except, with
5491 respect to any one qualified active low-income community business, the maximum amount of
5492 qualified low-income community investments made in such business, on a collective basis with
5493 all of the business's affiliates, with the proceeds of qualified equity investments certified under
5494 Section [~~63M-1-3503~~] 63N-2-603 shall be \$4,000,000, exclusive of qualified low-income
5495 community investments made with repaid or redeemed qualified low-income community
5496 investments or interest or profits realized on the repaid or redeemed qualified low-income
5497 community investments.

5498 (12) "Tax credit certificate" is a certificate issued by the office under Subsection
5499 [~~63M-1-3503~~] 63N-2-603(11) to an entity eligible for a tax credit under Section ~~59-9-107~~ that:

5500 (a) lists the name of the entity eligible for a tax credit;

5501 (b) lists the entity's taxpayer identification number;

5502 (c) lists the amount of tax credit that the office determines the entity is eligible for the
5503 calendar year; and

5504 (d) may include other information as determined by the office.

5505 Section 121. Section ~~63N-2-603~~, which is renumbered from Section ~~63M-1-3503~~ is
5506 renumbered and amended to read:

5507 ~~[63M-1-3503]~~. 63N-2-603. **Certification of qualified equity investments --**
5508 **Issuance of tax credit related certificates.**

5509 (1) (a) A qualified community development entity that seeks to have an equity
5510 investment or long-term debt security certified as a qualified equity investment and as eligible
5511 for tax credits under Section ~~59-9-107~~ shall apply to the office.

5512 (b) The office shall begin accepting applications on September 2, 2014.

5513 (c) The qualified community development entity shall include the following in the
5514 qualified community development entity's application:

5515 [(a)] (i) evidence of the applicant's certification as a qualified community development
5516 entity, including evidence of the service area of the applicant that includes this state;

5517 [(b)] (ii) a copy of an allocation agreement executed by the applicant, or its controlling
5518 entity, and the Community Development Financial Institutions Fund;

5519 [(c)] (iii) a certificate executed by an executive officer of the applicant attesting that:

5520 [(t)] (A) the applicant or its controlling entity has received more than one allocation of
5521 qualified equity investment authority under the Federal New Markets Tax Credit Program; and

5522 [(t)] (B) the allocation agreement submitted with the application remains in effect and
5523 has not been revoked or cancelled by the Community Development Financial Institutions Fund;

5524 [(d)] (iv) a description of the proposed amount, structure, and purchaser of the
5525 qualified equity investment;

5526 [(e)] (v) examples of the types of qualified active low-income businesses in which the
5527 applicant, its controlling entity, or affiliates of its controlling entity have invested under the
5528 Federal New Markets Tax Credit Program, except that when submitting an application an
5529 applicant is not required to identify qualified active low-income community businesses in
5530 which the applicant will invest;

5531 [(f)] (vi) the amount of qualified equity investment authority the applicant agrees to
5532 designate as a federal qualified equity investment under Section 45D, Internal Revenue Code,
5533 including a copy of the screen shot from the Community Development Financial Institutions
5534 Fund's Allocation Tracking System of the applicant's remaining federal qualified equity
5535 investment authority;

5536 [(g)] (vii) if applicable, the refundable performance deposit required by Subsection
5537 [63M-1-3506\(1\)](#);

5538 [(h)] (viii) a copy of a certificate of qualified equity investment authority under another
5539 state's new markets tax credit program; and

5540 [(i)] (ix) evidence that the applicant, its controlling entity, and subsidiary qualified
5541 community development entities of the controlling entity have collectively made at least
5542 \$40,000,000 in qualified low-income community investments under the Federal New Markets
5543 Tax Credit Program and other state's new markets tax credit programs with a maximum
5544 qualified low-income community investment size of \$4,000,000 per business.

5545 (2) (a) Within 30 days after receipt of a completed application containing the

5546 information set forth in Subsection (1), including, if applicable, the refundable performance
5547 deposit, the office shall grant or deny the application in full or in part.

5548 (b) If the office denies any part of the application, the office shall inform the applicant
5549 of the grounds for the denial. If the applicant provides additional information required by the
5550 office or otherwise completes its application within 15 days of the notice of denial, the
5551 application shall be considered completed as of the original date of submission.

5552 (c) If the applicant fails to provide the information or complete its application within
5553 the 15-day period:

5554 (i) the application is denied;

5555 (ii) the applicant shall resubmit an application in full with a new submission date; and

5556 (iii) the office shall return any refundable performance deposit required by Subsection
5557 ~~[63M-1-3506]~~ 63N-2-606(1).

5558 (3) (a) If the application is complete, the office shall certify the proposed equity
5559 investment or long-term debt security as a qualified equity investment, subject to the limitation
5560 contained in Subsection (6).

5561 (b) The office shall provide written notice of the certification to the qualified
5562 community development entity.

5563 (4) The office shall certify qualified equity investments in the order applications are
5564 received by the office. Applications received on the same day are considered to have been
5565 received simultaneously.

5566 (5) For applications that are complete and received on the same day, the office shall
5567 certify, consistent with remaining qualified equity investment capacity, qualified equity
5568 investments of applicants as follows:

5569 (a) First, the office shall certify applications by applicants that agree to designate
5570 qualified equity investments as federal qualified equity investments in accordance with
5571 Subsection (1)~~(f)~~(c)(vi) in proportionate percentages based upon the ratio of the amount of
5572 qualified equity investments requested in an application to be designated as federal qualified
5573 equity investments to the total amount of qualified equity investments to be designated as
5574 federal qualified equity investments requested in all applications received on the same day.

5575 (b) After complying with Subsection (5)(a), the office shall certify the qualified equity
5576 investments of all other applicants, including the remaining qualified equity investment

5577 authority requested by applicants not designated as federal qualified equity investments in
5578 accordance with Subsection (1)[(f)](c)(vi), in proportionate percentages based upon the ratio of
5579 the amount of qualified equity investments requested in the applications to the total amount of
5580 qualified equity investments requested in all applications received on the same day.

5581 (6) (a) (i) The office shall certify \$50,000,000 in qualified equity investments pursuant
5582 to this section.

5583 (ii) If a pending request cannot be fully certified due to this limit, the office shall
5584 certify the portion that may be certified unless the qualified community development entity
5585 elects to withdraw its request rather than receive partial certification.

5586 (b) If a qualified community development entity withdraws its request pursuant to
5587 Subsection (6)(a), the office shall return any refundable performance deposit required by
5588 Subsection [~~63M-1-3506~~] 63N-2-606(1).

5589 (c) A partial certification does not decrease the amount of the refundable performance
5590 deposit required under Subsection [~~63M-1-3506~~] 63N-2-606(1).

5591 (7) An approved applicant may transfer all or a portion of its certified qualified equity
5592 investment authority to its controlling entity or a subsidiary qualified community development
5593 entity of the controlling entity, provided that the applicant and the transferee notify the office of
5594 the transfer with the notice set forth in Subsection (8) and include with the notice the
5595 information required in the application with respect to the transferee.

5596 (8) (a) Within 45 days of the applicant receiving notice of certification, the qualified
5597 community development entity or any transferee under Subsection (7) shall:

5598 (i) issue the qualified equity investment;

5599 (ii) receive cash in the amount of the certified amount; and

5600 (iii) if applicable, designate the required amount of qualified equity investment
5601 authority as federal qualified equity investments.

5602 (b) The qualified community development entity or transferee under Subsection (7)
5603 shall provide the office with evidence of the receipt of the cash investment and designation of
5604 the qualified equity investment as a federal qualified equity investment within 50 days of the
5605 applicant receiving notice of certification.

5606 (c) The certification under this section lapses and the qualified community
5607 development entity may not issue the qualified equity investment without reapplying to the

5608 office for certification if, within 45 days following receipt of the certification notice, the
5609 qualified community development entity or any transferee under Subsection (7) does not:

- 5610 (i) receive the cash investment;
- 5611 (ii) issue the qualified equity investment; and
- 5612 (iii) if applicable, designate the required amount of qualified equity investment
5613 authority as federal qualified equity investments.

5614 (d) A lapsed certification under this Subsection (8) reverts back to the office and shall
5615 be reissued as follows:

- 5616 (i) first, pro rata to applicants whose qualified equity investment allocations were
5617 reduced under Subsection (5)(a), if applicable;
- 5618 (ii) second, pro rata to applicants whose qualified equity investment allocations were
5619 reduced under Subsection (5)(b); and
- 5620 (iii) after complying with Subsections (8)(d)(i) and (ii), in accordance with the
5621 application process.

5622 (e) (i) The office shall:

5623 (A) calculate an annual fee to be paid by each applicant certified pursuant to
5624 Subsection (3)(a), regardless of the number of transferees under Subsection (7), by dividing
5625 \$100,000 by the number of applications certified pursuant to Subsection (3)(a); and

5626 (B) notify each successful applicant of the amount of the annual fee.

5627 (ii) (A) The initial annual fee shall be due and payable to the office with the evidence
5628 of receipt of cash investment set forth in Subsection (8)(b).

5629 (B) After the initial annual fee, an annual fee shall be due and payable to the office
5630 with each report submitted pursuant to Section [~~63M-1-3510~~] 63N-2-610.

5631 (iii) An annual fee may not be required once a qualified community development entity
5632 together with all transferees under Subsection (7) have decertified all qualified equity
5633 investments in accordance with Subsection [~~63M-1-3507~~] 63N-2-607(2).

5634 (iv) To maintain an aggregate annual fee of \$100,000 for all qualified community
5635 development entities, the office shall recalculate the annual fee as needed upon:

5636 (A) the lapse of any certification under Subsection (8)(c);

5637 (B) the recapture of tax credits pursuant to Section [~~63M-1-3504~~] 63N-2-604; or

5638 (C) the decertification of qualified equity investments pursuant to Subsection

5639 [63M-1-3507] 63N-2-607(2).

5640 (v) An annual fee collected under this Subsection (8)(e) shall be deposited into the
5641 General Fund as a dedicated credit for use by the office to implement this part.

5642 (9) (a) A qualified community development entity that issues a debt instrument
5643 described in Subsection [63M-1-3502] 63N-2-602(6) may not make cash interest payments on
5644 the debt instrument during the period beginning on the date of issuance and ending on the final
5645 credit allowance date in an amount that exceeds the cumulative operating income, as defined
5646 by regulations adopted under Section 45D, Internal Revenue Code, of the qualified community
5647 development entity for that period before giving effect to the interest expense of the long-term
5648 debt security.

5649 (b) This Subsection (9) does not limit the holder of the debt instrument's ability to
5650 accelerate payments on the debt instrument in situations when the qualified community
5651 development entity has defaulted on covenants designed to ensure compliance with this part or
5652 Section 45D, Internal Revenue Code.

5653 (10) (a) A qualified community development entity that issues qualified equity
5654 investments shall notify the office of the names of the entities that are eligible to use tax credits
5655 under this section and Section 59-9-107:

- 5656 (i) pursuant to an allocation of tax credits;
5657 (ii) pursuant to a change in allocation of tax credits; or
5658 (iii) due to a transfer of a qualified equity investment.

5659 (b) The office may by rule, made in accordance with Title 63G, Chapter 3, Utah
5660 Administrative Rulemaking Act, provide for the form and content of the notice required under
5661 this Subsection (10).

5662 (11) (a) An entity may claim a tax credit under Section 59-9-107 against tax liability
5663 under Title 59, Chapter 9, Taxation of Admitted Insurers, if the entity:

- 5664 (i) makes a qualified equity investment; and
5665 (ii) obtains a tax credit certificate in accordance with Subsection (11)(b).

5666 (b) For each calendar year, beginning with calendar year 2016, an entity is eligible for a
5667 tax credit under this section and Section 59-9-107, the office shall issue to the entity a tax
5668 credit certificate for use after January 1, 2017, and provide the State Tax Commission a copy of
5669 the tax credit certificate.

5670 (c) On each credit allowance date of the qualified equity investment, the entity that
5671 made the qualified equity investment, or the subsequent holder of the qualified equity
5672 investment, may claim a portion of the tax credit during the calendar year that includes the
5673 credit allowance date.

5674 (d) The office shall calculate the tax credit amount and the tax credit amount shall be
5675 equal to the applicable percentage for the credit allowance date multiplied by the purchase
5676 price paid to the qualified community development entity for the qualified equity investment.

5677 (e) A tax credit allowed to a partnership, limited liability company, or S-corporation
5678 shall be allocated to the partners, members, or shareholders of the partnership, limited liability
5679 company, or S-corporation for the partners', members', or shareholders' direct use in accordance
5680 with the provisions of any agreement among the partners, members, or shareholders.

5681 (f) An entity may not sell a tax credit allowed under this section on the open market.

5682 (12) (a) An entity that claims a tax credit under Section 59-9-107 and this section shall
5683 provide the office with a document that expressly directs and authorizes the State Tax
5684 Commission to disclose to the office the entity's tax returns and other information concerning
5685 the entity that are required by the office and that would otherwise be subject to confidentiality
5686 under Section 59-1-403 or Section 6103, Internal Revenue Code~~[, to the office]~~.

5687 (b) The office shall submit the document described in Subsection (12)(a) to the State
5688 Tax Commission.

5689 (c) Upon receipt of the document described in Subsection (12)(a), the State Tax
5690 Commission shall provide the office with the information requested by the office that the entity
5691 authorized the State Tax Commission to provide to the office in the document described in
5692 Subsection (12)(a).

5693 Section 122. Section **63N-2-604**, which is renumbered from Section 63M-1-3504 is
5694 renumbered and amended to read:

5695 ~~[63M-1-3504]~~. **63N-2-604. Recapture.**

5696 (1) The office may recapture a tax credit from an entity that claimed the tax credit
5697 allowed under Section 59-9-107 on a return, if any of the following occur:

5698 (a) If any amount of a federal tax credit available with respect to a qualified equity
5699 investment that is eligible for a tax credit under this part is recaptured under Section 45D,
5700 Internal Revenue Code, the office may recapture the tax credit in an amount that is

5701 proportionate to the federal recapture with respect to the qualified equity investment.

5702 (b) If the qualified community development entity redeems or makes principal
5703 repayment with respect to a qualified equity investment before the seventh anniversary of the
5704 issuance of the qualified equity investment, the office may recapture an amount proportionate
5705 to the amount of the redemption or repayment with respect to the qualified equity investment.

5706 (c) (i) If the qualified community development entity fails to invest an amount equal to
5707 85% of the purchase price of the qualified equity investment in qualified low-income
5708 community investments in Utah within 12 months of the issuance of the qualified equity
5709 investment and maintains at least 85% of the level of investment in qualified low-income
5710 community investments in Utah until the last credit allowance date for the qualified equity
5711 investment, the office may recapture the tax credit.

5712 (ii) For purposes of this part, an investment is considered held by a qualified
5713 community development entity even if the investment has been sold or repaid if the qualified
5714 community development entity reinvests an amount equal to the capital returned to or
5715 recovered by the qualified community development entity from the original investment,
5716 exclusive of any profits realized, in another qualified low-income community investment
5717 within 12 months of the receipt of the capital.

5718 (iii) Periodic amounts received as repayment of principal pursuant to regularly
5719 scheduled amortization payments on a loan that is a qualified low-income community
5720 investment shall be treated as continuously invested in a qualified low-income community
5721 investment if the amounts are reinvested in one or more qualified low-income community
5722 investments by the end of the following calendar year.

5723 (iv) A qualified community development entity is not required to reinvest capital
5724 returned from a qualified low-income community investment after the sixth anniversary of the
5725 issuance of the qualified equity investment, and the qualified low-income community
5726 investment shall be considered held by the qualified community development entity through
5727 the seventh anniversary of the qualified equity investment's issuance.

5728 (d) If a qualified community development entity makes a distribution or debt payment
5729 in violation of Subsection [~~63M-1-3507~~] 63N-2-607(1), the office may recapture the tax credit.

5730 (e) If there is a violation of Section [~~63M-1-3509~~] 63N-2-609, the office may recapture
5731 the tax credit.

5732 (2) A recaptured tax credit and the related qualified equity investment authority revert
5733 back to the office and shall be reissued:

5734 (a) first, pro rata to applicants whose qualified equity investment allocations were
5735 reduced under Subsection [~~63M-1-3503~~] 63N-2-603(5)(a);

5736 (b) second, pro rata to applicants whose qualified equity investment allocations were
5737 reduced under Subsection [~~63M-1-3503~~] 63N-2-603(5)(b); and

5738 (c) after complying with Subsections (2)(a) and (b), in accordance with the application
5739 process.

5740 Section 123. Section **63N-2-605**, which is renumbered from Section 63M-1-3505 is
5741 renumbered and amended to read:

5742 ~~[63M-1-3505]~~. **63N-2-605. Notice of noncompliance.**

5743 (1) Enforcement of a recapture provision under Subsection [~~63M-1-3504~~]
5744 63N-2-604(1) is subject to a six-month cure period.

5745 (2) The office may not recapture a tax credit until the office notifies the qualified
5746 community development entity of noncompliance and affords the qualified community
5747 development entity six months from the date of the notice to cure the noncompliance.

5748 Section 124. Section **63N-2-606**, which is renumbered from Section 63M-1-3506 is
5749 renumbered and amended to read:

5750 ~~[63M-1-3506]~~. **63N-2-606. Refundable performance deposit -- Small**
5751 **Business Jobs Performance Guarantee Account.**

5752 (1) (a) A qualified community development entity that seeks to have an equity
5753 investment or long-term debt security certified as a qualified equity investment and as eligible
5754 for tax credits under Section ~~59-9-107~~ shall pay a deposit in the amount of .5% of the amount
5755 of the equity investment or long-term debt security requested in an application to be certified as
5756 a qualified equity investment to the office for deposit into the Small Business Jobs
5757 Performance Guarantee Account.

5758 (b) (i) There is created in the General Fund a restricted account known as the "Small
5759 Business Jobs Performance Guarantee Account" that consists of deposits made under
5760 Subsection (1)(a).

5761 (ii) The Small Business Jobs Performance Guarantee Account does not earn interest.

5762 (iii) At the end of a fiscal year, any amount in the Small Business Jobs Performance

5763 Guarantee Account that a qualified community development entity forfeits under this section is
5764 to be transferred to the General Fund.

5765 (iv) The office shall work with the Division of Finance to ensure that money in the
5766 Small Business Jobs Performance Guarantee Account is properly accounted for at the end of
5767 each fiscal year.

5768 (c) A qualified community development entity shall forfeit the deposit required under
5769 Subsection (1)(a) in its entirety if:

5770 (i) the qualified community development entity and its subsidiary qualified community
5771 development entities fail to issue the total amount of qualified equity investments certified by
5772 the office and receive cash in the total amount certified under Section [~~63M-1-3503~~]
5773 63N-2-603; or

5774 (ii) the qualified community development entity or any subsidiary qualified community
5775 development entity that issues a qualified equity investment certified under this part fails to
5776 make qualified low-income community investments in qualified active low-income community
5777 businesses in Utah equal to at least 85% of the purchase price of the qualified equity
5778 investment by the second credit allowance date of such qualified equity investment.

5779 (d) The six-month cure period established under Section [~~63M-1-3505~~] 63N-2-605 is
5780 not applicable to the forfeiture of a deposit under Subsection (1)(c).

5781 (2) (a) A deposit required under Subsection (1) shall be paid to the office and held in
5782 the Small Business Jobs Performance Guarantee Account until such time as compliance with
5783 this Subsection (2) is established.

5784 (b) A qualified community development entity may request a refund of the deposit
5785 from the office no sooner than 30 days after the qualified community development entity and
5786 all transferees under Subsection [~~63M-1-3503~~] 63N-2-603(7) have invested 85% of the
5787 purchase price of the qualified equity investment authority certified by the office pursuant to
5788 Subsection [~~63M-1-3503~~] 63N-2-603(3).

5789 (c) The office has 30 days to comply with the request for a refund or give notice of
5790 noncompliance.

5791 Section 125. Section **63N-2-607**, which is renumbered from Section 63M-1-3507 is
5792 renumbered and amended to read:

5793 [~~63M-1-3507~~]. **63N-2-607. 150% investment requirement -- Ceasing of**

5794 **certification.**

5795 (1) (a) Once certified under Section [~~63M-1-3503~~] 63N-2-603, a qualified equity
5796 investment shall remain certified until all of the requirements of Subsection (2) have been met.

5797 (b) Until such time as the qualified equity investments issued by a qualified community
5798 development entity are no longer certified, the qualified community development entity may
5799 not distribute to its equity holders or make cash payments on long-term debt securities that
5800 have been certified as qualified equity investments in an amount that exceeds the sum of:

5801 (i) the cumulative operating income, as defined by regulations adopted under Section
5802 45D, Internal Revenue Code, earned by the qualified community development entity since
5803 issuance of the qualified equity investment, before giving effect to any interest expense from
5804 long-term debt securities certified as qualified equity investments; and

5805 (ii) 50% of the purchase price of the qualified equity investments issued by the
5806 qualified community development entity.

5807 (2) Subject to the other provisions of this section, a qualified equity investment ceases
5808 to be certified when:

5809 (a) it is beyond its seventh credit allowance date;

5810 (b) the qualified community development entity issuing the qualified equity investment
5811 has been in compliance with Section [~~63M-1-3504~~] 63N-2-604 through its seventh credit
5812 allowance date, including any cures under Section [~~63M-1-3505~~] 63N-2-605;

5813 (c) the qualified community development entity issuing such qualified equity
5814 investment has used the cash purchase of such qualified equity investment, together with
5815 capital returned, repaid, or redeemed or profits realized with qualified low-income community
5816 investments, to invest in qualified active low-income community businesses such that the total
5817 qualified low-income community investments made, cumulatively including reinvestments,
5818 exceeds 150% of the qualified equity investment; and

5819 (d) the qualified community development complies with Subsection (4).

5820 (3) For purposes of making the calculation under Subsection (2)(c), qualified
5821 low-income community investments to any one qualified active low-income community
5822 business, on a collective basis with its affiliates, in excess of \$4,000,000 may not be included,
5823 unless such investments are made with capital returned or repaid from qualified low-income
5824 community investments made by the qualified community development entity in other

5825 qualified active low-income community businesses or interest earned on or profits realized
5826 from any qualified low-income community investments.

5827 (4) (a) A qualified community development entity shall file a request for ceasing
5828 certification of a qualified equity investment in a form, provided by the office, that establishes
5829 that the qualified community development entity has met the requirements of Subsection (2)
5830 along with evidence supporting the request for ceasing certification.

5831 (b) Subsection (2)(b) shall be considered to be met if no recapture action has been
5832 commenced by the office as of the seventh credit allowance date.

5833 (5) (a) A request for ceasing certification may not be unreasonably denied and the
5834 office shall respond to the request within 30 days of the office receiving the request.

5835 (b) Upon grant of a request for ceasing certification, the qualified community
5836 development entity is no longer subject to Section [~~63M-1-3510~~] 63N-2-610.

5837 (c) If the request is denied for any reason, the office has the burden of proof in any
5838 administrative or legal proceeding that follows.

5839 Section 126. Section **63N-2-608**, which is renumbered from Section 63M-1-3508 is
5840 renumbered and amended to read:

5841 [~~63M-1-3508~~]. **63N-2-608. Limitation on fees.**

5842 (1) A qualified community development entity or purchaser of a qualified equity
5843 investment may not pay to any qualified community development entity or affiliate of a
5844 qualified community development entity any fee in connection with any activity under this part
5845 before meeting the requirements of Subsection [~~63M-1-3507~~] 63N-2-607(2) with respect to all
5846 qualified equity investments issued by such qualified community development entity and its
5847 affiliates.

5848 (2) Subsection (1) does not prohibit the allocation or distribution of income earned by a
5849 qualified community development entity or purchaser of a qualified equity investment to the
5850 qualified community development entity's or purchaser's equity owners or the payment of
5851 reasonable interest on amounts lent to a qualified community development entity or purchaser
5852 of a qualified equity investment.

5853 Section 127. Section **63N-2-609**, which is renumbered from Section 63M-1-3509 is
5854 renumbered and amended to read:

5855 [~~63M-1-3509~~]. **63N-2-609. New capital requirement.**

5856 (1) A qualified active low-income community business that receives a qualified
5857 low-income community investment from a qualified community development entity that issues
5858 qualified equity investments under this part, or any affiliates of a qualified active low-income
5859 community business, may not directly or indirectly:

5860 (a) own or have the right to acquire an ownership interest in a qualified community
5861 development entity or member or affiliate of a qualified community development entity,
5862 including a holder of a qualified equity investment issued by the qualified community
5863 development entity; or

5864 (b) loan to or invest in a qualified community development entity or member or
5865 affiliate of a qualified community development entity, including a holder of a qualified equity
5866 investment issued by a qualified community development entity when the proceeds of the loan
5867 or investment are directly or indirectly used to fund or refinance the purchase of a qualified
5868 equity investment under this part.

5869 (2) For purposes of this section, a qualified community development entity may not be
5870 considered an affiliate of a qualified active low-income community business solely as a result
5871 of its qualified low-income community investment in the business.

5872 Section 128. Section **63N-2-610**, which is renumbered from Section 63M-1-3510 is
5873 renumbered and amended to read:

5874 **[63M-1-3510]**. **63N-2-610. Reporting.**

5875 (1) (a) A qualified community development entity that issues qualified equity
5876 investments shall submit a report to the office within the first five business days after the first
5877 anniversary of the initial credit allowance date that provides documentation as to the
5878 investment of 85% of the purchase price in qualified low-income community investments in
5879 qualified active low-income community businesses located in Utah.

5880 (b) The report shall include:

5881 ~~[(a)]~~ (i) a bank statement of the qualified community development entity evidencing
5882 each qualified low-income community investment; and

5883 ~~[(b)]~~ (ii) evidence that the business was a qualified active low-income community
5884 business at the time of the qualified low-income community investment.

5885 (2) (a) After the initial report under Subsection (1), a qualified community
5886 development entity shall submit an annual report to the office within 60 days of the beginning

5887 of the calendar year during the compliance period. [~~An~~]

5888 (b) The annual report is not due before the first anniversary of the initial credit
5889 allowance date.

5890 (c) The annual report shall include the following:

5891 ~~(a)~~ (i) the number of employment positions created and retained as a result of
5892 qualified low-income community investments;

5893 ~~(b)~~ (ii) the average annual salary of positions described in Subsection (2)~~(a)~~(c)(i);
5894 and

5895 ~~(c)~~ (iii) certification from the qualified community development entity that the
5896 grounds for recapture under Section [~~63M-1-3504~~] 63N-2-604 have not occurred.

5897 Section 129. Section **63N-2-611**, which is renumbered from Section 63M-1-3511 is
5898 renumbered and amended to read:

5899 ~~[63M-1-3511]~~. **63N-2-611. Revenue impact assessment.**

5900 (1) Before making a qualified low-income community investment, a qualified
5901 community development entity shall submit to the office a revenue impact assessment prepared
5902 using a nationally recognized economic development model that demonstrates that the
5903 qualified low-income community investment will have a revenue positive impact on the state
5904 over 10 years against the 58% tax credit utilization over the same 10-year period.

5905 (2) The office [~~must~~] shall notify the qualified community development entity within
5906 five business days if the qualified low-income community investment does not have a revenue
5907 positive impact on the state over 10 years against the 58% tax credit utilization over the same
5908 10-year period using the revenue impact assessment submitted.

5909 (3) If the office determines that the revenue impact assessment does not reflect a
5910 revenue positive qualified low-income community investment, the office may waive the
5911 requirement under this section if the office determines that the proposed qualified low-income
5912 community investment will further economic development.

5913 Section 130. Section **63N-2-612**, which is renumbered from Section 63M-1-3512 is
5914 renumbered and amended to read:

5915 ~~[63M-1-3512]~~. **63N-2-612. Scope of part.**

5916 This part applies only to a return or report originally due on or after September 2, 2014.

5917 Section 131. Section **63N-2-701**, which is renumbered from Section 63M-1-3101 is

5918 renumbered and amended to read:

5919 **Part 7. Alternative Energy Manufacturing Tax Credit Act**

5920 ~~[63M-1-3101].~~ **63N-2-701. Title.**

5921 This part is known as the "Alternative Energy Manufacturing Tax Credit Act."

5922 Section 132. Section **63N-2-702**, which is renumbered from Section 63M-1-3102 is
5923 renumbered and amended to read:

5924 ~~[63M-1-3102].~~ **63N-2-702. Definitions.**

5925 As used in this [section] part:

5926 (1) "Alternative energy" [is] has the same meaning as defined in Section 59-12-102.

5927 (2) (a) "Alternative energy entity" means a person that:

5928 (i) conducts business within the state; and

5929 (ii) enters into an agreement with the office that qualifies the person to receive a tax
5930 credit.

5931 (b) "Alternative energy entity" includes a pass-through entity taxpayer, as defined in
5932 Section 59-10-1402, of a person described in Subsection (2)(a).

5933 (3) "Alternative energy manufacturing project" means a project produced by an
5934 alternative energy entity if that project involves:

5935 (a) a new or expanding operation in the state of a new or expanding alternative energy
5936 entity; and

5937 (b) the manufacturing of machinery or equipment used directly in the production of
5938 alternative energy.

5939 (4) "New incremental job within the state" means, with respect to an alternative energy
5940 entity, an employment position that:

5941 (a) did not exist within the state before:

5942 (i) the alternative energy entity entered into an agreement with the office in accordance
5943 with Section [~~63M-1-3103~~] 63N-2-703; and

5944 (ii) the alternative energy manufacturing project began;

5945 (b) is not shifted from one location in the state to another location in the state; and

5946 (c) is established to the satisfaction of the office, including by amounts paid or
5947 withheld by the alternative energy entity under Title 59, Chapter 10, Individual Income Tax
5948 Act.

5949 (5) "New state revenues" means an increased amount of tax revenues generated as a
 5950 result of an alternative energy manufacturing project by an alternative energy entity or a new
 5951 incremental job within the state under the following:

5952 (a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

5953 (b) Title 59, Chapter 10, Individual Income Tax Act; and

5954 (c) Title 59, Chapter 12, Sales and Use Tax Act.

5955 [~~(6) "Office" means the Governor's Office of Economic Development.~~]

5956 [~~(7)~~] (6) "Tax credit" means a tax credit under Section 59-7-614.8 or 59-10-1030.

5957 [~~(8)~~] (7) "Tax credit applicant" means an alternative energy entity that applies to the
 5958 office to receive a tax credit certificate under this part.

5959 [~~(9)~~] (8) "Tax credit certificate" means a certificate issued by the office that:

5960 (a) lists the name of the tax credit certificate recipient;

5961 (b) lists the tax credit certificate recipient's taxpayer identification number;

5962 (c) lists the amount of the tax credit certificate recipient's tax credits authorized under
 5963 this part for a taxable year; and

5964 (d) includes other information as determined by the office.

5965 [~~(10)~~] (9) "Tax credit certificate recipient" means an alternative energy entity that
 5966 receives a tax credit certificate for a tax credit in accordance with this part.

5967 Section 133. Section **63N-2-703**, which is renumbered from Section 63M-1-3103 is
 5968 renumbered and amended to read:

5969 ~~**[63M-1-3103].**~~ **63N-2-703. Tax credits.**

5970 (1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
 5971 the office, with advice from the board, shall make rules establishing standards an alternative
 5972 energy entity shall meet to qualify for a tax credit.

5973 (b) Before the office enters into an agreement described in Subsection (2) with an
 5974 alternative energy entity, the office shall certify:

5975 (i) that the alternative energy manufacturing project will generate new state revenues;

5976 (ii) the economic life of the alternative energy manufacturing project produced by the
 5977 alternative energy entity;

5978 (iii) that local incentives have been committed or will be committed to be provided to
 5979 the alternative energy manufacturing project;

5980 (iv) that the alternative energy entity meets the requirements of Section [~~63M-1-3104~~]
5981 63N-2-704; and

5982 (v) that the alternative energy entity has received a Certificate of Good Standing from
5983 the Division of Corporations and Commercial Code.

5984 (2) If an alternative energy entity meets the requirements of this part to receive a tax
5985 credit, the office may enter into an agreement with the alternative energy entity to authorize the
5986 tax credit in accordance with Subsection (3).

5987 (3) (a) Subject to Subsections (3)(b) through (d), the office may authorize or commit a
5988 tax credit under this part that may not exceed 100% of new state revenues generated by the
5989 alternative energy manufacturing project.

5990 (b) As determined by the office, the office may authorize or commit a tax credit under
5991 this section for a time period that does not exceed the lesser of:

- 5992 (i) the economic life of the alternative energy manufacturing project; or
- 5993 (ii) 20 years.

5994 (c) The office shall consider economic modeling, including the costs and benefits of an
5995 alternative energy manufacturing project to the state and local governments, in determining:

- 5996 (i) the amount of tax credit to authorize or commit in accordance with Subsection
5997 (3)(a); and

- 5998 (ii) the time period for which the office will authorize or commit a tax credit in
5999 accordance with Subsection (3)(b).

6000 (d) For a taxable year, a tax credit under this section may not exceed the new state
6001 revenues generated by an alternative energy manufacturing project during that taxable year.

6002 (4) An alternative energy entity that seeks to receive a tax credit or has entered into an
6003 agreement described in Subsection (2) with the office shall:

- 6004 (a) annually file a report with the office showing the new state revenues generated by
6005 the alternative energy manufacturing project during the taxable year for which the alternative
6006 energy entity seeks to receive a tax credit under Section ~~59-7-614.8~~ or ~~59-10-1030~~;

- 6007 (b) submit to an audit for verification of a tax credit under Section ~~59-7-614.8~~ or
6008 ~~59-10-1030~~;

- 6009 (c) provide the office with information required by the office to certify the economic
6010 life of the alternative energy manufacturing project produced by the alternative energy entity,

6011 which may include a power purchase agreement, a lease, or a permit; and

6012 (d) retain records supporting a claim for a tax credit for at least four years after the
6013 alternative energy entity claims a tax credit under Section 59-7-614.8 or 59-10-1030.

6014 (5) The office shall annually certify the new state revenues generated by an alternative
6015 energy manufacturing project for a taxable year for which an alternative energy entity seeks to
6016 receive a tax credit under Section 59-7-614.8 or 59-10-1030.

6017 Section 134. Section **63N-2-704**, which is renumbered from Section 63M-1-3104 is
6018 renumbered and amended to read:

6019 ~~[63M-1-3104]~~. **63N-2-704. Qualifications for tax credit -- Procedure.**

6020 (1) The office, with advice from the board, shall certify an alternative energy entity's
6021 eligibility for a tax credit as provided in this section.

6022 (2) A tax credit applicant shall provide the office with:

6023 (a) an application for a tax credit certificate;

6024 (b) documentation that the tax credit applicant meets the standards and requirements
6025 described in Section [~~63M-1-3103~~] 63N-2-703 to the satisfaction of the office for the taxable
6026 year for which the tax credit applicant seeks to claim a tax credit; and

6027 (c) documentation that expressly directs and authorizes the State Tax Commission to
6028 disclose to the office the tax credit applicant's returns and other information concerning the tax
6029 credit applicant that would otherwise be subject to confidentiality under Section 59-1-403 or
6030 Section 6103, Internal Revenue Code.

6031 (3) (a) The office shall submit the documentation described in Subsection (2)(c) to the
6032 State Tax Commission.

6033 (b) Upon receipt of the documentation described in Subsection (2)(c), the State Tax
6034 Commission shall provide the office with the documentation described in Subsection (2)(c)
6035 requested by the office that the tax credit applicant directed and authorized the State Tax
6036 Commission to provide to the office.

6037 (4) If, after the office reviews the documentation described in Subsections (2) and (3),
6038 the office determines that the documentation supporting the tax credit applicant's claim for a
6039 tax credit is not substantially accurate, the office shall:

6040 (a) deny the tax credit; or

6041 (b) inform the tax credit applicant that the documentation supporting the tax credit

6042 applicant's claim for a tax credit was inadequate and ask the tax credit applicant to submit new
6043 documentation.

6044 (5) If, after the office reviews the documentation described in Subsections (2) and (3),
6045 the office determines that the documentation supporting the tax credit applicant's claim for a
6046 tax credit is substantially accurate, the office shall, on the basis of that documentation:

6047 (a) enter into the agreement described in Section [~~63M-1-3103~~] 63N-2-703;

6048 (b) issue a tax credit certificate to the tax credit applicant; and

6049 (c) provide a duplicate copy of the tax credit certificate described in Subsection (5)(b)
6050 to the State Tax Commission.

6051 (6) An alternative energy entity may not claim a tax credit under this part unless the
6052 alternative energy entity is a tax credit certificate recipient.

6053 (7) A tax credit certificate recipient that claims a tax credit shall retain the tax credit
6054 certificate in accordance with Subsection [~~63M-1-3103~~] 63N-2-703(4).

6055 Section 135. Section **63N-2-705**, which is renumbered from Section 63M-1-3105 is
6056 renumbered and amended to read:

6057 ~~[63M-1-3105].~~ **63N-2-705. Reporting.**

6058 The office shall provide the following information in the annual written report
6059 described in Section [~~63M-1-206~~] 63N-2-301:

6060 (1) the office's success in attracting alternative energy manufacturing projects to the
6061 state and the resulting increase in new state revenues under this part;

6062 (2) the amount of tax credits the office has granted or will grant and the time period
6063 during which the tax credits have been or will be granted; and

6064 (3) the economic impact on the state by comparing new state revenues to tax credits
6065 that have been or will be granted under this part.

6066 Section 136. Section **63N-2-801**, which is renumbered from Section 63M-1-2901 is
6067 renumbered and amended to read:

6068 **Part 8. Technology and Life Science Economic Development Act**

6069 ~~[63M-1-2901].~~ **63N-2-801. Title.**

6070 This part is known as the "Technology and Life Science Economic Development Act."

6071 Section 137. Section **63N-2-802**, which is renumbered from Section 63M-1-2902 is
6072 renumbered and amended to read:

6073 ~~[63M-1-2902]~~. 63N-2-802. Definitions.

6074 As used in this part:

6075 ~~[(1) "Board" means the Governor's Office of Economic Development Board of~~
6076 ~~Directors.]~~

6077 ~~[(2)]~~ (1) "Claimant" [is] has the same meaning as defined in Section [59-10-1002](#).

6078 ~~[(3)]~~ (2) "Eligible business entity" means a person that:

6079 (a) enters into an agreement with the office in accordance with this part to receive a tax
6080 credit certificate for a tax credit under Section [59-7-614.6](#) or [59-10-1109](#);

6081 (b) is:

6082 (i) a life science establishment; or

6083 (ii) described in NAICS Code 334413, Semiconductor and Related Device

6084 Manufacturing, of the 2007 North American Industry Classification System of the federal

6085 Executive Office of the President, Office of Management and Budget;

6086 (c) has at least 50% of its employees in the state for each day of a taxable year the

6087 eligible business entity claims a tax credit under Section [59-7-614.6](#) or [59-10-1109](#); and

6088 (d) receives a tax credit certificate from the office in accordance with this part.

6089 ~~[(4)]~~ (3) "Eligible claimant, estate, or trust" means a claimant, estate, or trust that:

6090 (a) enters into an agreement with the office in accordance with this part to receive a tax
6091 credit certificate for a tax credit under Section [59-10-1025](#); and

6092 (b) receives a tax credit certificate from the office in accordance with this part.

6093 ~~[(5)]~~ (4) "Eligible new state tax revenues" means an increased amount of tax revenues
6094 generated as a result of an eligible product or project by an eligible business entity or a new
6095 incremental job within the state under the following:

6096 (a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

6097 (b) Title 59, Chapter 10, Individual Income Tax Act; and

6098 (c) Title 59, Chapter 12, Sales and Use Tax Act.

6099 ~~[(6)]~~ (5) "Eligible product or project" means any product or project produced by an
6100 eligible business entity that was not produced prior to the date of an agreement with the office
6101 under Section [~~63M-1-2908~~] [63N-2-808](#):

6102 (a) by the eligible business entity; and

6103 (b) within the state.

6104 ~~[(7)]~~ (6) "Life science establishment" [is] has the same meaning as defined in Section
6105 59-10-1025.

6106 ~~[(8)]~~ (7) "New incremental job within the state" means, with respect to an eligible
6107 business entity, an employment position that:

6108 (a) did not exist within the state before:

6109 (i) the eligible business entity entered into an agreement with the office in accordance
6110 with this part; and

6111 (ii) the eligible product was produced or the eligible project began;

6112 (b) is not shifted from one location in the state to another location in the state; and

6113 (c) is established to the satisfaction of the office, including by amounts paid or
6114 withheld by the eligible business entity under Title 59, Chapter 10, Individual Income Tax Act.

6115 ~~[(9) "Office" means the Governor's Office of Economic Development.]~~

6116 ~~[(10)]~~ (8) "Tax credit" means a tax credit under:

6117 (a) Section 59-7-614.6;

6118 (b) Section 59-10-1025; or

6119 (c) Section 59-10-1109.

6120 ~~[(11)]~~ (9) "Tax credit applicant" means a person that applies to the office to receive a
6121 tax credit certificate under this part.

6122 ~~[(12)]~~ (10) "Tax credit certificate" means a certificate issued by the office that:

6123 (a) lists the name of the tax credit certificate recipient;

6124 (b) lists the tax credit certificate recipient's taxpayer identification number;

6125 (c) lists the amount of the tax credit certificate recipient's tax credits authorized under
6126 this part for a taxable year; and

6127 (d) includes other information as determined by the office.

6128 ~~[(13)]~~ (11) "Tax credit certificate recipient" means:

6129 (a) an eligible business entity that receives a tax credit certificate in accordance with
6130 this part for a tax credit under Section 59-7-614.6 or 59-10-1109; or

6131 (b) an eligible claimant, estate, or trust that receives a tax credit certificate in
6132 accordance with this part for a tax credit under Section 59-10-1025.

6133 Section 138. Section **63N-2-803**, which is renumbered from Section 63M-1-2903 is
6134 renumbered and amended to read:

6135 ~~[63M-1-2903]~~. 63N-2-803. **Tax credits issued by office.**

6136 (1) (a) The office may issue tax credit certificates under this part only to the extent that
6137 the Legislature, by statute, expressly authorizes the office to issue the tax credit certificates
6138 under this part for a fiscal year.

6139 (b) The Legislature intends that a statutory authorization under Subsection (1)(a)
6140 specify:

6141 (i) the total allocation to the tax credits under Sections 59-7-614.6 and 59-10-1109; and

6142 (ii) the allocation to the tax credit under Section 59-10-1025.

6143 (2) For fiscal year 2011-12 only, the office may issue a total of \$1,300,000 in tax credit
6144 certificates in accordance with this part.

6145 (3) (a) If the total amount of tax credit certificates the office issues in a fiscal year is
6146 less than the amount of tax credit certificates the office may issue under this part in a fiscal
6147 year, the office may issue the remaining amount of tax credit certificates in a fiscal year after
6148 the fiscal year for which there is a remaining amount of tax credit certificates.

6149 (b) Except as provided in Subsection (3)(c), if the total amount of tax credit certificates
6150 the office issues in a quarter of a fiscal year is less than the amount of tax credit certificates the
6151 office may issue under this part in that quarter, the office may issue the remaining amount of
6152 tax credit certificates in a quarter after the quarter for which there is a remaining amount of tax
6153 credit certificates.

6154 (c) For fiscal year 2011-12 only, if the total amount of tax credit certificates the office
6155 issues in fiscal year 2011-12 is less than the amount of tax credit certificates the office may
6156 issue in tax credit certificates under Subsection (2), the office:

6157 (i) may issue the remaining amount of tax credit certificates in a fiscal year after fiscal
6158 year 2011-12; and

6159 (ii) is not required to allocate the tax credit certificates to any particular quarter.

6160 Section 139. Section **63N-2-804**, which is renumbered from Section 63M-1-2904 is
6161 renumbered and amended to read:

6162 ~~[63M-1-2904]~~. 63N-2-804. **Person may not claim or pass through a tax**
6163 **credit without tax credit certificate.**

6164 A person may not claim or pass through a tax credit unless the person has received a tax
6165 credit certificate from the office for the taxable year for which the person claims or passes

6166 through the tax credit.

6167 Section 140. Section **63N-2-805**, which is renumbered from Section 63M-1-2905 is
6168 renumbered and amended to read:

6169 ~~[63M-1-2905]~~. **63N-2-805. Application process.**

6170 (1) A tax credit applicant may apply to the office to receive a tax credit certificate by
6171 filing an application with the office:

6172 (a) on or before the quarterly deadline established by the office by rule made in
6173 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

6174 (b) on a form and in the manner prescribed by the office.

6175 (2) The application shall include:

6176 (a) tax return information as required by the office that is necessary for the office to
6177 determine eligibility for and the amount of a tax credit; and

6178 (b) other documentation as required by the office.

6179 (3) As part of the application required by this section, a tax credit applicant shall sign a
6180 separate document that expressly directs and authorizes the State Tax Commission to disclose
6181 to the office the tax credit certificate recipient's tax returns and other information concerning
6182 the tax credit certificate that:

6183 (a) would otherwise be subject to confidentiality under Section [59-1-403](#) or Section
6184 6103, Internal Revenue Code; and

6185 (b) are necessary for the office to determine eligibility for and the amount of a tax
6186 credit under this part.

6187 (4) Upon receipt of the document described in Subsection (3), the State Tax
6188 Commission shall provide the office with the tax returns and other information requested by
6189 the office that the tax credit applicant directed or authorized the State Tax Commission to
6190 provide to the office, including information necessary to determine eligibility for the amount of
6191 a tax credit.

6192 (5) If the office determines that the information a tax credit applicant provides is
6193 inadequate to provide a reasonable justification for authorizing a tax credit, the office shall:

6194 (a) deny the tax credit; or

6195 (b) inform the tax credit applicant that the information is inadequate and ask the tax
6196 credit applicant to submit new or additional documentation.

6197 Section 141. Section **63N-2-806**, which is renumbered from Section 63M-1-2906 is
6198 renumbered and amended to read:

6199 ~~[63M-1-2906]~~. **63N-2-806. Criteria for tax credits.**

6200 (1) A tax credit applicant shall establish as part of the application required by Section
6201 ~~[63M-1-2905]~~ 63N-2-805 that the tax credit applicant:

6202 (a) meets all of the criteria to receive the tax credit for which the tax credit applicant
6203 applies, except for the requirement to obtain a tax credit certificate; and

6204 (b) will provide a long-term economic benefit to the state.

6205 (2) The office may not issue a tax credit certificate to a tax credit applicant that fails to
6206 meet the requirements of Subsection (1)(a).

6207 Section 142. Section **63N-2-807**, which is renumbered from Section 63M-1-2907 is
6208 renumbered and amended to read:

6209 ~~[63M-1-2907]~~. **63N-2-807. Rulemaking authority.**

6210 The office shall, by rule, made in accordance with Title 63G, Chapter 3, Utah
6211 Administrative Rulemaking Act, establish:

6212 (1) criteria to prioritize the issuance of tax credits amongst tax credit applicants in a
6213 manner consistent with this part; and

6214 (2) procedures for documenting the office's application of the criteria described in
6215 Subsection (1).

6216 Section 143. Section **63N-2-808**, which is renumbered from Section 63M-1-2908 is
6217 renumbered and amended to read:

6218 ~~[63M-1-2908]~~. **63N-2-808. Agreement between tax credit applicant and
6219 office -- Tax credit certificate.**

6220 (1) (a) Except as provided in Subsection ~~[63M-1-2903]~~ 63N-2-803(3)(b), for each
6221 quarter of a fiscal year after fiscal year 2011-12, the office shall allocate:

6222 (i) 25% of the total amounts made available for allocation in accordance with Section
6223 ~~[63M-1-2903]~~ 63N-2-803 for the tax credits under Sections ~~59-7-614.6~~ and ~~59-10-1109~~; and

6224 (ii) 25% of the amounts made available for allocation in accordance with Section
6225 ~~[63M-1-2903]~~ 63N-2-803 for the tax credit under Section ~~59-10-1025~~.

6226 (b) Subject to the other provisions of this part, the office, with advice from the board,
6227 shall determine quarterly:

6228 (i) the tax credit applicant or applicants to which a tax credit certificate may be
6229 provided; and

6230 (ii) the amount of tax credit a tax credit applicant may receive.

6231 (2) The office, with advice from the board, may enter into an agreement to grant a tax
6232 credit certificate to a tax credit applicant selected in accordance with this part, if the tax credit
6233 applicant meets the conditions established in the agreement and under this part.

6234 (3) The agreement described in Subsection (2) shall:

6235 (a) detail the requirements that the tax credit applicant shall meet prior to receiving a
6236 tax credit certificate;

6237 (b) require the tax credit certificate recipient to retain records supporting a claim for a
6238 tax credit for at least four years after the tax credit certificate recipient claims a tax credit under
6239 this part; and

6240 (c) require the tax credit certificate recipient to submit to audits for verification of the
6241 tax credit claimed, including audits by the office and by the State Tax Commission.

6242 Section 144. Section **63N-2-809**, which is renumbered from Section 63M-1-2909 is
6243 renumbered and amended to read:

6244 ~~[63M-1-2909]~~. **63N-2-809**. **Issuance of tax credit certificates.**

6245 (1) For a tax credit applicant that seeks to claim a tax credit, the office may issue a tax
6246 credit certificate to the tax credit applicant:

6247 (a) for the first taxable year for which the tax credit applicant qualifies for the tax credit
6248 and enters into an agreement with the office;

6249 (b) for two taxable years immediately following the taxable year described in
6250 Subsection (1)(a); and

6251 (c) for the seven taxable years immediately following the last of the two taxable years
6252 described in Subsection (1)(b) if:

6253 (i) the agreement with the office described in Section ~~[63M-1-2908]~~ 63N-2-808
6254 includes a provision that the tax credit applicant will make new capital expenditures of at least
6255 \$1,000,000,000 in the state; and

6256 (ii) the tax credit applicant makes new capital expenditures of at least \$1,000,000,000
6257 in the state in accordance with the agreement with the office described in Section

6258 ~~[63M-1-2908]~~ 63N-2-808.

6259 (2) The office shall provide a duplicate copy of each tax credit certificate to the State
6260 Tax Commission.

6261 Section 145. Section **63N-2-810**, which is renumbered from Section 63M-1-2910 is
6262 renumbered and amended to read:

6263 ~~[63M-1-2910]~~. **63N-2-810. Reports on tax credit certificates -- Study by**
6264 **legislative committees.**

6265 (1) The office shall include the following information in the annual written report
6266 described in Section [~~63M-1-206~~] 63N-1-301:

6267 (a) the total amount listed on tax credit certificates the office issues under this part;

6268 (b) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax
6269 credit applicants under this part; and

6270 (c) the economic impact on the state related to providing tax credits under this part.

6271 (2) (a) On or before November 1, 2016, and every five years after November 1, 2016,
6272 the Revenue and Taxation Interim Committee shall:

6273 (i) study the tax credits allowed under Sections 59-7-614.6, 59-10-1025, and
6274 59-10-1109; and

6275 (ii) make recommendations concerning whether the tax credits should be continued,
6276 modified, or repealed.

6277 (b) The study under Subsection (2)(a) shall include an evaluation of:

6278 (i) the cost of the tax credits under Sections 59-7-614.6, 59-10-1025, and 59-10-1109;

6279 (ii) the purposes and effectiveness of the tax credits; and

6280 (iii) the extent to which the state benefits from the tax credits.

6281 Section 146. Section **63N-2-811**, which is renumbered from Section 63M-1-2911 is
6282 renumbered and amended to read:

6283 ~~[63M-1-2911]~~. **63N-2-811. Reports of tax credits.**

6284 (1) Before December 1 of each year, the office shall submit a report to the Governor's
6285 Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the Division
6286 of Finance identifying:

6287 (a) the total amount listed on tax credit certificates the office issues under this part; and

6288 (b) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax
6289 credit applicants.

6290 (2) By the first business day of each month, the office shall submit a report to the
 6291 Governor's Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the
 6292 Division of Finance identifying:

- 6293 (a) each new agreement entered into by the office since the last report;
 6294 (b) the total amount listed on tax credit certificates the office issues under this part; and
 6295 (c) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax
 6296 credit applicants.

6297 Section 147. Section **63N-3-101**, which is renumbered from Section 63M-1-901 is
 6298 renumbered and amended to read:

6299 **CHAPTER 3. ECONOMIC DEVELOPMENT PROGRAMS**

6300 **Part 1. Industrial Assistance Account**

6301 ~~[63M-1-901].~~ **63N-3-101. Title -- Purpose.**

6302 (1) This chapter is known as "Economic Development Programs."

6303 (2) This part is known as the "Industrial Assistance Account."

6304 (3) The Legislature finds and declares that the fostering and development of industry in
 6305 Utah is a state public purpose necessary to assure the welfare of its citizens, the growth of its
 6306 economy, and adequate employment for its citizens.

6307 Section 148. Section **63N-3-102**, which is renumbered from Section 63M-1-902 is
 6308 renumbered and amended to read:

6309 ~~[63M-1-902].~~ **63N-3-102. Definitions.**

6310 As used in this part:

6311 (1) "Administrator" means the executive director or the executive director's designee.

6312 [~~2~~] ~~"Board" means the Board of Business and Economic Development.]~~

6313 [~~3~~] (2) "Company creating an economic impediment" means a company that
 6314 discourages economic development within a reasonable radius of its location because of:

6315 (a) odors;

6316 (b) noise;

6317 (c) pollution;

6318 (d) health hazards; or

6319 (e) other activities similar to those described in Subsections (3)(a) through (d).

6320 [~~5~~] (3) "Economically disadvantaged rural area" means a geographic area designated

6321 by the board under Section [~~63M-1-910~~] 63N-3-111.

6322 (4) "Economic opportunities" means unique business situations or community
6323 circumstances which lend themselves to the furtherance of the economic interests of the state
6324 by providing a catalyst or stimulus to the growth or retention, or both, of commerce and
6325 industry in the state, including retention of companies whose relocation outside the state would
6326 have a significant detrimental economic impact on the state as a whole, regions of the state, or
6327 specific components of the state as determined by the board.

6328 [~~(6)~~] (5) "Replacement company" means a company locating its business or part of its
6329 business in a location vacated by a company creating an economic impediment.

6330 [~~(7)~~] (6) "Restricted Account" means the restricted account known as the Industrial
6331 Assistance Account created in Section [~~63M-1-903~~] 63N-3-103.

6332 [~~(8)~~] (7) "Targeted industry" means an industry or group of industries targeted by the
6333 board under Section [~~63M-1-910~~] 63N-3-111, for economic development in the state.

6334 Section 149. Section **63N-3-103**, which is renumbered from Section 63M-1-903 is
6335 renumbered and amended to read:

6336 [~~63M-1-903~~]. **63N-3-103. Industrial Assistance Account created -- Uses --**
6337 **Administrator duties -- Costs.**

6338 (1) There is created a restricted account within the General Fund known as the
6339 "Industrial Assistance Account" of which:

- 6340 (a) up to 50% may be used in economically disadvantaged rural areas;
6341 (b) up to 25% may be used to take timely advantage of economic opportunities as they
6342 arise;
6343 (c) up to 4% may be used to promote business and economic development in rural
6344 areas of the state with the Business Expansion and Retention Initiative; and
6345 (d) up to \$3,000,000 may be used for the purpose of incubating technology solutions
6346 related to economic and workforce development.

6347 (2) The administrator shall administer:

- 6348 (a) the restricted account created under Subsection (1), under the policy direction of the
6349 board; and
6350 (b) the Business Expansion and Retention Initiative for the rural areas of the state.
6351 (3) The administrator may hire appropriate support staff to perform the duties required

6352 under this section.

6353 (4) The cost of administering the restricted account shall be paid from money in the
6354 restricted account.

6355 (5) Interest accrued from investment of money in the restricted account shall remain in
6356 the restricted account.

6357 Section 150. Section **63N-3-104**, which is renumbered from Section 63M-1-904 is
6358 renumbered and amended to read:

6359 ~~[63M-1-904]~~. **63N-3-104. Rural Fast Track Program -- Creation --**
6360 **Funding -- Qualifications for program participation -- Awards -- Reports.**

6361 (1) (a) There is created the Rural Fast Track Program.

6362 (b) The program is a funded component of the economically disadvantaged rural areas
6363 designation in Subsection ~~[63M-1-903]~~ 63N-3-103(1)(a).

6364 (2) The purpose of the program is to provide an efficient way for small companies in
6365 rural areas of the state to receive incentives for creating high paying jobs in those areas of the
6366 state.

6367 (3) (a) Twenty percent of the unencumbered amount in the Industrial Assistance
6368 Account created in Subsection ~~[63M-1-903]~~ 63N-3-103(1) at the beginning of each fiscal year
6369 shall be used to fund the program.

6370 (b) The 20% referred to in Subsection (3)(a) is not in addition to but is a part of the up
6371 to 50% designation for economically disadvantaged rural areas referred to in Subsection
6372 ~~[63M-1-903]~~ 63N-3-103(1)(a).

6373 (c) If any of the 20% allocation referred to in Subsection (3)(a) has not been used in the
6374 program by the end of the third quarter of each fiscal year, that money may be used for any
6375 other loan, grant, or assistance program offered through the Industrial Assistance Account
6376 during the fiscal year.

6377 (4) (a) To qualify for participation in the program a company shall:

6378 (i) complete and file with the office an application for participation in the program,
6379 signed by an officer of the company;

6380 (ii) be located and conduct its business operations in a county in the state that has:

6381 (A) a population of less than 30,000; and

6382 (B) an average household income of less than \$60,000 as reflected in the most recently

6383 available data collected and reported by the United States Census Bureau;
6384 (iii) have been in business in the state for at least two years; and
6385 (iv) have at least two employees.

6386 (b) (i) The office shall verify an applicant's qualifications under Subsection (4)(a).
6387 (ii) The application must be approved by the administrator in order for a company to
6388 receive an incentive or other assistance under this section.

6389 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6390 administrator may make rules governing:

6391 (i) the content of the application form referred to in Subsection (4)(a)(i);
6392 (ii) who qualifies as an employee under Subsection (4)(a)(iv); and
6393 (iii) the verification procedure referred to in Subsection (4)(b).

6394 (5) (a) The administrator shall make incentive cash awards to small companies under
6395 this section based on the following criteria:

6396 (i) \$1,000 for each new incremental job that pays over 110% of the county's average
6397 annual wage;

6398 (ii) \$1,250 for each incremental job that pays over 115% of the county's average annual
6399 wage; and

6400 (iii) \$1,500 for each incremental job that pays over 125% of the county's average
6401 annual wage.

6402 (b) The administrator shall make a cash award under Subsection (5)(a) when a new
6403 incremental job has been in place for at least 12 months.

6404 (c) The creation of a new incremental job by a company is based on the number of
6405 employees at the company during the previous 24 months.

6406 (d) (i) A small company may also apply for grants, loans, or other financial assistance
6407 under the program to help develop its business in rural Utah and may receive up to \$50,000
6408 under the program if approved by the administrator.

6409 (ii) The board must approve a distribution that exceeds the \$50,000 cap under
6410 Subsection (5)(d)(i).

6411 (6) The administrator shall make a quarterly report to the board of the awards made by
6412 the administrator under this section and submit a report to the office on the awards and their
6413 impact on economic development in the state's rural areas for inclusion in the office's annual

6414 written report described in Section [~~63M-1-206~~] 63N-1-301.

6415 Section 151. Section **63N-3-105**, which is renumbered from Section 63M-1-906 is
6416 renumbered and amended to read:

6417 ~~[63M-1-906]~~. **63N-3-105. Qualification for assistance.**

6418 (1) Except as provided in Section [~~63M-1-908, 63M-1-909, or 63M-1-909.5~~]
6419 63N-3-108, 63N-3-109, or 63N-3-110, the administrator shall determine which industries,
6420 companies, and individuals qualify to receive money from the Industrial Assistance Account.
6421 Except as provided by Subsection (2), to qualify for financial assistance from the restricted
6422 account, an applicant shall:

6423 (a) demonstrate to the satisfaction of the administrator that the applicant will expend
6424 funds in Utah with employees, vendors, subcontractors, or other businesses in an amount
6425 proportional with money provided from the restricted account at a minimum ratio of 2 to 1 per
6426 year or other more stringent requirements as established from time to time by the board for a
6427 minimum period of five years beginning with the date the loan or grant was approved;

6428 (b) demonstrate to the satisfaction of the administrator the applicant's ability to sustain
6429 economic activity in the state sufficient to repay, by means of cash or appropriate credits, the
6430 loan provided by the restricted account; and

6431 (c) satisfy other criteria the administrator considers appropriate.

6432 (2) (a) The administrator may exempt an applicant from the requirements of Subsection
6433 (1)(a) or (b) if:

6434 (i) the financial assistance is provided to an applicant for the purpose of locating all or
6435 any portion of its operations to an economically disadvantaged rural area;

6436 (ii) the applicant is part of a targeted industry;

6437 (iii) the applicant is a quasi-public corporation organized under Title 16, Chapter 6a,
6438 Utah Revised Nonprofit Corporation Act, or Title 63E, Chapter 2, Independent Corporations
6439 Act, and its operations, as demonstrated to the satisfaction of the administrator, will provide
6440 significant economic stimulus to the growth of commerce and industry in the state; or

6441 (iv) the applicant is an entity offering an economic opportunity under Section

6442 [~~63M-1-909~~] 63N-3-109.

6443 (b) The administrator may not exempt the applicant from the requirement under
6444 Subsection [~~63M-1-905~~] 63N-3-106(2)(b) that the loan be structured so that the repayment or

6445 return to the state equals at least the amount of the assistance together with an annual interest
6446 charge.

6447 (3) The administrator shall:

6448 (a) for applicants not described in Subsection (2)(a):

6449 (i) make findings as to whether or not each applicant has satisfied each of the
6450 conditions set forth in Subsection (1); and

6451 (ii) monitor the continued compliance by each applicant with each of the conditions set
6452 forth in Subsection (1) for five years;

6453 (b) for applicants described in Subsection (2)(a), make findings as to whether the
6454 economic activities of each applicant has resulted in the creation of new jobs on a per capita
6455 basis in the economically disadvantaged rural area or targeted industry in which the applicant is
6456 located;

6457 (c) monitor the compliance by each applicant with the provisions of any contract or
6458 agreement entered into between the applicant and the state as provided in Section [63M-1-907]
6459 63N-3-107; and

6460 (d) make funding decisions based upon appropriate findings and compliance.

6461 Section 152. Section **63N-3-106**, which is renumbered from Section 63M-1-905 is
6462 renumbered and amended to read:

6463 **[63M-1-905]. 63N-3-106. Loans, grants, and assistance -- Repayment --**
6464 **Earned credits.**

6465 (1) (a) A company that qualifies under Section [63M-1-906] 63N-3-105 may receive
6466 loans, grants, or other financial assistance from the Industrial Assistance Account for expenses
6467 related to establishment, relocation, or development of industry in Utah.

6468 (b) A company creating an economic impediment that qualifies under Section
6469 [63M-1-908] 63N-3-108 may in accordance with this part receive loans, grants, or other
6470 financial assistance from the restricted account for the expenses of the company creating an
6471 economic impediment related to:

6472 (i) relocation to a rural area in Utah of the company creating an economic impediment;
6473 and

6474 (ii) the siting of a replacement company.

6475 (c) An entity offering an economic opportunity that qualifies under Section

6476 [~~63M-1-909~~] 63N-3-109 may:

6477 (i) receive loans, grants, or other financial assistance from the restricted account for
6478 expenses related to the establishment, relocation, retention, or development of industry in the
6479 state; and

6480 (ii) include infrastructure or other economic development precursor activities that act
6481 as a catalyst and stimulus for economic activity likely to lead to the maintenance or
6482 enlargement of the state's tax base.

6483 (2) (a) Subject to Subsection (2)(b), the administrator has authority to determine the
6484 structure, amount, and nature of any loan, grant, or other financial assistance from the restricted
6485 account.

6486 (b) Loans made under Subsection (2)(a) shall be structured so the intended repayment
6487 or return to the state, including cash or credit, equals at least the amount of the assistance
6488 together with an annual interest charge as negotiated by the administrator.

6489 (c) Payments resulting from grants awarded from the restricted account shall be made
6490 only after the administrator has determined that the company has satisfied the conditions upon
6491 which the payment or earned credit was based.

6492 (3) (a) (i) Except as provided in Subsection (3)(b), the administrator may provide for a
6493 system of earned credits that may be used to support grant payments or in lieu of cash
6494 repayment of a restricted account loan obligation.

6495 (ii) The value of the credits described in Subsection (3)(a)(i) shall be based on factors
6496 determined by the administrator, including:

6497 (A) the number of Utah jobs created;

6498 (B) the increased economic activity in Utah; or

6499 (C) other events and activities that occur as a result of the restricted account assistance.

6500 (b) (i) The administrator shall provide for a system of credits to be used to support
6501 grant payments or in lieu of cash repayment of a restricted account loan when loans are made to
6502 a company creating an economic impediment.

6503 (ii) The value of the credits described in Subsection (3)(b)(i) shall be based on factors
6504 determined by the administrator, including:

6505 (A) the number of Utah jobs created;

6506 (B) the increased economic activity in Utah; or

6507 (C) other events and activities that occur as a result of the restricted account assistance.

6508 (4) (a) A cash loan repayment or other cash recovery from a company receiving
6509 assistance under this section, including interest, shall be deposited into the restricted account.

6510 (b) The administrator and the Division of Finance shall determine the manner of
6511 recognizing and accounting for the earned credits used in lieu of loan repayments or to support
6512 grant payments as provided in Subsection (3).

6513 (5) (a) (i) At the end of each fiscal year, the Division of Finance shall set aside the
6514 balance of the General Fund revenue surplus as defined in Section [63J-1-312](#) after the transfers
6515 of General Fund revenue surplus described in Subsection (5)(b) to the Industrial Assistance
6516 Account in an amount equal to any credit that has accrued under this part.

6517 (ii) The set aside under Subsection (5)(a)(i) shall be capped at \$50,000,000, at which
6518 time no subsequent contributions may be made and any interest accrued above the \$50,000,000
6519 cap shall be deposited into the General Fund.

6520 (b) The set aside required by Subsection (5)(a) shall be made after the transfer of
6521 surplus General Fund revenue surplus is made:

6522 (i) to the Medicaid Growth Reduction and Budget Stabilization Restricted Account, as
6523 provided in Section [63J-1-315](#);

6524 (ii) to the General Fund Budget Reserve Account, as provided in Section [63J-1-312](#);
6525 and

6526 (iii) to the State Disaster Recovery Restricted Account, as provided in Section
6527 [63J-1-314](#).

6528 (c) These credit amounts may not be used for purposes of the restricted account as
6529 provided in this part until appropriated by the Legislature.

6530 Section 153. Section **63N-3-107**, which is renumbered from Section 63M-1-907 is
6531 renumbered and amended to read:

6532 ~~[63M-1-907]~~. **63N-3-107. Agreements.**

6533 The administrator shall enter into agreements with each successful applicant that have
6534 specific terms and conditions for each loan or assistance, including:

6535 (1) repayment schedules;

6536 (2) interest rates;

6537 (3) specific economic activity required to qualify for the loan or assistance or for

6538 repayment credits;

6539 (4) collateral or security, if any; and

6540 (5) other terms and conditions considered appropriate by the administrator.

6541 Section 154. Section **63N-3-108**, which is renumbered from Section 63M-1-908 is

6542 renumbered and amended to read:

6543 ~~[63M-1-908].~~ **63N-3-108. Financial assistance to companies that create**
6544 **economic impediments.**

6545 (1) (a) The administrator may provide money from the Industrial Assistance Account to
6546 a company creating an economic impediment if that company:

6547 (i) applies to the administrator;

6548 (ii) relocates to a rural area in Utah; and

6549 (iii) meets the qualifications of Subsection (1)(b).

6550 (b) Except as provided by Subsection (2), to qualify for financial assistance from the
6551 restricted account, a company creating an economic impediment shall:

6552 (i) demonstrate to the satisfaction of the administrator that the company creating an
6553 economic impediment, its replacement company, or in the aggregate the company creating the
6554 economic impediment and its replacement company:

6555 (A) will expend funds in Utah with employees, vendors, subcontractors, or other
6556 businesses in an amount proportional with money provided from the restricted account at a
6557 minimum ratio of 2 to 1 per year or other more stringent requirements as established from time
6558 to time by the board for a minimum period of five years beginning with the date the loan or
6559 grant was approved; and

6560 (B) can sustain economic activity in the state sufficient to repay, by means of cash or
6561 appropriate credits, the loan provided by the restricted account; and

6562 (ii) satisfy other criteria the administrator considers appropriate.

6563 (2) (a) The administrator may exempt a company creating an economic impediment
6564 from the requirements of Subsection (1)(b)(i)(A) if:

6565 (i) the financial assistance is provided to a company creating an economic impediment
6566 for the purpose of locating all or any portion of its operations to an economically disadvantaged
6567 rural area; or

6568 (ii) its replacement company is part of a targeted industry.

6569 (b) The administrator may not exempt a company creating an economic impediment
6570 from the requirement under Subsection [~~63M-1-905~~] 63N-3-106(2)(b) that the loan be
6571 structured so that the repayment or return to the state equals at least the amount of the
6572 assistance together with an annual interest charge.

6573 (3) The administrator shall:

6574 (a) make findings as to whether or not a company creating an economic impediment,
6575 its replacement company, or both, have satisfied each of the conditions set forth in Subsection
6576 (1);

6577 (b) monitor the compliance by a company creating an economic impediment, its
6578 replacement company, or both, with:

6579 (i) each of the conditions set forth in Subsection (1); and

6580 (ii) any contract or agreement under Section [~~63M-1-907~~] 63N-3-107 entered into
6581 between:

6582 (A) the company creating an economic impediment; and

6583 (B) the state; and

6584 (c) make funding decisions based upon appropriate findings and compliance.

6585 Section 155. Section **63N-3-109**, which is renumbered from Section 63M-1-909 is
6586 renumbered and amended to read:

6587 [~~63M-1-909~~]. **63N-3-109. Financial assistance to entities offering economic**
6588 **opportunities.**

6589 (1) Subject to the duties and powers of the board under Section [~~63M-1-303~~]
6590 63N-1-402, the administrator may provide money from the Industrial Assistance Account to an
6591 entity offering an economic opportunity if that entity:

6592 (a) applies to the administrator; and

6593 (b) meets the qualifications of Subsection (2).

6594 (2) The applicant shall:

6595 (a) demonstrate to the satisfaction of the administrator the nature of the economic
6596 opportunity and the related benefit to the economic well-being of the state by providing
6597 evidence documenting the logical and compelling linkage, either direct or indirect, between the
6598 expenditure of money necessitated by the economic opportunity and the likelihood that the
6599 state's tax base, regions of the state's tax base, or specific components of the state's tax base

6600 will not be reduced but will be maintained or enlarged;

6601 (b) demonstrate how the funding request will act in concert with other state, federal, or
6602 local agencies to achieve the economic benefit;

6603 (c) demonstrate how the funding request will act in concert with free market principles;

6604 (d) in the case of an economic opportunity that includes the retention of jobs,
6605 demonstrate how the potential relocation of jobs outside the state is related to a merger,
6606 acquisition, consolidation, or similar business reason other than the applicant simply requesting
6607 state assistance to remain in the state;

6608 (e) satisfy other criteria the administrator considers appropriate; and

6609 (f) be either:

6610 (i) an entity whose purpose is to exclusively or substantially promote, develop, or
6611 maintain the economic welfare and prosperity of the state as a whole, regions of the state, or
6612 specific components of the state, including:

6613 (A) an entity that is a sports development organization under contract with the state for
6614 sports development and sporting event attraction and related activities that provide an
6615 economic impact or promotional value to the state; or

6616 (B) an entity that implements technology innovation in public schools, including
6617 whole-school one-to-one mobile device technology deployment for the purpose of incubating
6618 technology solutions related to economic and workforce development.

6619 (ii) a company or individual that does not otherwise qualify under Section [\[63M-1-906\]](#)
6620 [63N-3-105](#).

6621 (3) Subject to the duties and powers of the board under Section [\[63M-1-303\]](#)
6622 [63N-1-402](#), the administrator shall:

6623 (a) make findings as to whether an applicant has satisfied each of the conditions set
6624 forth in Subsection (2);

6625 (b) establish benchmarks and timeframes in which progress toward the completion of
6626 the agreed upon activity is to occur;

6627 (c) monitor compliance by an applicant with any contract or agreement entered into by
6628 the applicant and the state as provided by Section [\[63M-1-907\]](#) [63N-3-107](#); and

6629 (d) make funding decisions based upon appropriate findings and compliance.

6630 Section 156. Section **63N-3-110**, which is renumbered from Section 63M-1-909.5 is

6631 renumbered and amended to read:

6632 ~~[63M-1-909.5].~~ 63N-3-110. **Selection of educational technology provider to**
 6633 **implement whole-school one-to-one mobile device technology deployment plan for**
 6634 **schools.**

6635 The board shall select an educational technology provider to develop and implement a
 6636 whole-school one-to-one mobile device technology deployment plan for schools in accordance
 6637 with the requirements of this part and Section [53A-1-709](#).

6638 Section 157. Section **63N-3-111**, which is renumbered from Section 63M-1-910 is
 6639 renumbered and amended to read:

6640 ~~[63M-1-910].~~ 63N-3-111. **Annual policy considerations.**

6641 (1) The board shall determine annually which industries or groups of industries shall be
 6642 targeted industries as defined in Section ~~[63M-1-902]~~ [63N-3-102](#).

6643 (2) In designating an economically disadvantaged rural area, the board shall consider
 6644 the average agricultural and nonagricultural wage, personal income, unemployment, and
 6645 employment in the area.

6646 (3) In evaluating the economic impact of applications for assistance, the board shall use
 6647 an econometric cost-benefit model or models adopted by the Governor's Office of Management
 6648 and Budget.

6649 (4) The board may establish:

6650 (a) minimum interest rates to be applied to loans granted that reflect a fair social rate of
 6651 return to the state comparable to prevailing market-based rates such as the prime rate, U.S.
 6652 Government T-bill rate, or bond coupon rate as paid by the state, adjusted by social indicators
 6653 such as the rate of unemployment; and

6654 (b) minimum applicant expense ratios, as long as they are at least equal to those
 6655 required under Subsection ~~[63M-1-906]~~ [63N-3-105\(1\)\(a\)](#) or ~~[63M-1-908]~~
 6656 [63N-3-108\(1\)\(b\)\(i\)\(A\)](#).

6657 Section 158. Section **63N-3-201**, which is renumbered from Section 63M-1-701 is
 6658 renumbered and amended to read:

6659 **Part 2. Technology Commercialization and Innovation Act**

6660 ~~[63M-1-701].~~ 63N-3-201. **Title.**

6661 This part is known as the "Technology Commercialization and Innovation Act."

6662 Section 159. Section **63N-3-202**, which is renumbered from Section 63M-1-702 is
6663 renumbered and amended to read:

6664 **[63M-1-702]**. **63N-3-202**. **Purpose.**

6665 (1) (a) The Legislature recognizes that the growth of new industry and expansion of
6666 existing industry requires a strong technology base, new ideas, concepts, innovations, and
6667 prototypes.

6668 (b) Growth in industry frequently results from technological innovation generated by
6669 strong research institutions of higher education and by small businesses.

6670 (c) Technical research in Utah's institutions of higher education should be enhanced
6671 and expanded, particularly in those areas targeted by the state for economic development.

6672 (d) Most states enhance their research base by direct funding, usually on a matching
6673 basis.

6674 (e) The purpose of this part is to catalyze and enhance the growth of these technologies
6675 by:

6676 (i) encouraging interdisciplinary research activities in targeted areas;

6677 (ii) facilitating the transition of these technologies out of the higher education
6678 environment into industry where the technologies can be used to enhance job creation; and

6679 (iii) supporting the commercialization of technologies developed by small business to
6680 enhance job creation.

6681 (f) The Legislature recognizes that one source of funding is to match state funds with
6682 federal funds and industrial support to provide and develop new technologies.

6683 (2) The Legislature recommends that the governor consider matching the allocation of
6684 economic development funds for the Technology Commercialization and Innovation Program
6685 with industry and federal grants.

6686 (3) (a) The Legislature recommends that the funds be allocated on a competitive basis:

6687 (i) to the various institutions of higher education in the state;

6688 (ii) to companies working in partnership with institutions of higher education to
6689 commercialize their technologies; and

6690 (iii) to small businesses that are developing promising technologies.

6691 (b) The funds made available should be used to support:

6692 (i) interdisciplinary research in the Technology Commercialization and Innovation

6693 Program in technologies that are considered to have potential for economic development in the
6694 state and to help transition these technologies out of institutions of higher education and into
6695 industry; and

6696 (ii) small businesses in commercializing their promising technologies that have the
6697 potential to increase economic development in the state.

6698 Section 160. Section **63N-3-203**, which is renumbered from Section 63M-1-703 is
6699 renumbered and amended to read:

6700 ~~**63M-1-703**~~. **63N-3-203**. **Definitions.**

6701 As used in this part:

6702 (1) "Business team consultant" means an experienced technology executive,
6703 entrepreneur, or business person who:

6704 (a) is recruited by the office through a request for proposal process to work directly
6705 with a college or university in the Technology Commercialization and Innovation Program; and

6706 (b) works with the institution to facilitate the transition of its technology into industry
6707 by assisting the institution in developing strategies, including spin out strategies when
6708 appropriate, and go-to-market plans, and identifying and working with potential customers and
6709 partners.

6710 (2) "Direct license" means a written license agreement between a company and a Utah
6711 institution of higher education related to technology developed at the institution of higher
6712 education with the intent of commercializing the technology or facilitating its transition into
6713 industry.

6714 (3) "Institution of higher education" means:

6715 (a) a state institution of higher education as defined in Section [53B-3-102](#); or

6716 (b) a private institution of higher education in the state accredited by a regional or
6717 national accrediting agency recognized by the United States Department of Education.

6718 (4) "Licensee" means:

6719 (a) a company that executes or is in the process of executing a direct license; or

6720 (b) a sublicensee of the technology from a direct license.

6721 (5) "Small business" means a business that:

6722 (a) meets the size standards for the business's industry classification as identified by the
6723 United States Small Business Administration in 13 C.F.R. Sec. 121.201;

6724 (b) is organized for profit;
6725 (c) operates primarily within the United States;
6726 (d) has a principal place of business in the state, including a manufacturing or service
6727 location; and

6728 (e) is independently owned and operated.

6729 (6) "Technology Commercialization and Innovation Program" means:

6730 (a) a federal- and industry-supported cooperative research and development program
6731 based at an institution of higher education; or

6732 (b) a federal- and state-supported program for funding technologically innovative small
6733 businesses.

6734 Section 161. Section **63N-3-204**, which is renumbered from Section 63M-1-704 is
6735 renumbered and amended to read:

6736 ~~**63M-1-704**~~. **63N-3-204. Administration -- Grants and loans.**

6737 (1) The ~~[Governor's Office of Economic Development]~~ office shall administer this
6738 part.

6739 (2) (a) (i) The office may award Technology Commercialization and Innovation
6740 Program grants or issue loans under this part to an applicant that is:

6741 (A) an institution of higher education;

6742 (B) a licensee; or

6743 (C) a small business.

6744 (ii) If loans are issued under Subsection (2)(a)(i), the Division of Finance may set up a
6745 fund or account as necessary for the proper accounting of the loans.

6746 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6747 office shall make rules for a process to determine whether an institution of higher education
6748 that receives a grant under this part must return the grant proceeds or a portion of the grant
6749 proceeds if the technology that is developed with the grant proceeds is licensed to a licensee
6750 that:

6751 (i) does not maintain a manufacturing or service location in the state from which the
6752 licensee or a sublicensee exploits the technology; or

6753 (ii) initially maintains a manufacturing or service location in the state from which the
6754 licensee or a sublicensee exploits the technology, but within five years after issuance of the

6755 license the licensee or sublicensee transfers the manufacturing or service location for the
6756 technology to a location out of the state.

6757 (c) A repayment by an institution of higher education of grant proceeds or a portion of
6758 the grant proceeds may only come from the proceeds of the license established between the
6759 licensee and the institution of higher education.

6760 (d) (i) An applicant that is a licensee or small business that receives a grant under this
6761 part shall return the grant proceeds or a portion of the grant proceeds to the office if the
6762 applicant:

6763 (A) does not maintain a manufacturing or service location in the state from which the
6764 applicant exploits the technology; or

6765 (B) initially maintains a manufacturing or service location in the state from which the
6766 applicant exploits the technology, but within five years after issuance of the grant, the applicant
6767 transfers the manufacturing or service location for the technology to an out-of-state location.

6768 (ii) A repayment by an applicant shall be prorated based on the number of full years the
6769 applicant operated in the state from the date of the awarded grant.

6770 (iii) A repayment by a licensee that receives a grant may only come from the proceeds
6771 of the license to that licensee.

6772 (3) (a) Funding allocations shall be made by the office with the advice of the board.

6773 (b) Each proposal shall receive the best available outside review.

6774 (4) (a) In considering each proposal, the office shall weigh technical merit, the level of
6775 matching funds from private and federal sources, and the potential for job creation and
6776 economic development.

6777 (b) Proposals or consortia that combine and coordinate related research at two or more
6778 institutions of higher education shall be encouraged.

6779 (5) The office shall review the activities and progress of grant recipients on a regular
6780 basis and, as part of the office's annual written report described in Section [63M-1-206]
6781 [63N-1-301](#), report on the accomplishments and direction of the Technology Commercialization
6782 and Innovation Program.

6783 Section 162. Section **63N-3-205**, which is renumbered from Section 63M-1-705 is
6784 renumbered and amended to read:

6785 ~~[63M-1-705]~~. **63N-3-205. Business team consultants.**

6786 (1) The office may enter into work agreements with business team consultants through
6787 a request for proposal process to participate in the Technology Commercialization and
6788 Innovation Program.

6789 (2) Under a work agreement, a business team consultant shall assist a college or
6790 university in facilitating the transition of its technology into industry.

6791 Section 163. Section **63N-3-301**, which is renumbered from Section 63M-1-2701 is
6792 renumbered and amended to read:

6793 **Part 3. Utah Business Resource Centers Act**

6794 ~~[63M-1-2701]~~. **63N-3-301. Title.**

6795 This part is known as the "Utah Business Resource Centers Act."

6796 Section 164. Section **63N-3-302**, which is renumbered from Section 63M-1-2702 is
6797 renumbered and amended to read:

6798 ~~[63M-1-2702]~~. **63N-3-302. Purpose.**

6799 The Legislature recognizes that:

6800 (1) the development of and assistance to business in Utah is a state public purpose
6801 necessary to assure the growth of the state's economy and provide adequate employment
6802 opportunities for its citizens;

6803 (2) public colleges and universities in the state hereafter, referred to as "host
6804 institutions," have academic and physical resources that can enhance economic development
6805 within the state through a partnership with the Governor's Office of Economic Development;

6806 (3) state funded economic development agencies, hereafter referred to as "agencies"
6807 could broaden and improve services to business clients through better regional and statewide
6808 coordination;

6809 (4) coordination of business clients needs is best done in the regions where they are
6810 established;

6811 (5) this coordination needs to be done under the direction of one designated state
6812 agency;

6813 (6) an important tool in these coordination efforts will be the development of a data
6814 base to identify, track, and assign agencies to be accountable for clients;

6815 (7) agency accountability can be improved through client tracking and monitoring at
6816 the regional level;

6817 (8) the state has historically experienced a high business start-up rate and has
6818 experienced a commensurate failure rate partially due to lack of coordination and
6819 accountability by state agencies;

6820 (9) the state's economy will continue to improve as state agencies and resources
6821 become more responsive to private business by identifying them, focusing on their needs, and
6822 tracking their progress; and

6823 (10) the governor and the Legislature will benefit from an annual report measuring tax
6824 revenue increases, new job creation, and other economic impact as a result of tracking and
6825 measuring state agencies' performance in the various regions of the state.

6826 Section 165. Section **63N-3-303**, which is renumbered from Section 63M-1-2703 is
6827 renumbered and amended to read:

6828 ~~[63M-1-2703].~~ **63N-3-303. Definitions.**

6829 As used in this part, "business resource centers" means entities established by the
6830 Governor's Office of Economic Development in partnership with state public institutions of
6831 higher education as certified resource centers to provide private businesses with one-stop
6832 technical assistance and access to statewide resources and programs, and to identify,
6833 coordinate, track, and measure the impact of business resource programs provided by state
6834 agencies in the various regions of the state.

6835 Section 166. Section **63N-3-304**, which is renumbered from Section 63M-1-2704 is
6836 renumbered and amended to read:

6837 ~~[63M-1-2704].~~ **63N-3-304. Establishment and administration of business**
6838 **resource centers -- Components.**

6839 (1) The [~~Governor's Office of Economic Development, hereafter referred to in this part~~
6840 ~~as "the office,"~~] office shall establish business resource centers in at least four different
6841 geographical regions of the state where host institutions are located and the host institutions
6842 agree to enter into a business resource center partnership with the office.

6843 (2) The office, in partnership with a host institution, shall provide methodology and
6844 oversight for a business resource center.

6845 (3) A host institution shall contribute 50% of a business resource center's operating
6846 costs through cash or in-kind contributions, unless otherwise provided under Subsection
6847 ~~[63M-1-2707]~~ 63N-3-307(7).

6848 (4) The office shall work with the Utah Business Assistance Advisory Board
6849 established under Section [~~63M-1-2706~~] 63N-3-306, hereafter referred to in this part as "the
6850 board," to provide operational oversight and coordination of the business resource centers
6851 established under this part.

6852 (5) (a) A business resource center shall work with state agencies in creating methods to
6853 coordinate functions and measure the impact of the efforts provided by the state agencies and
6854 the center.

6855 (b) The host institution, state, local and federal governmental entities,
6856 quasi-governmental entities, and private entities may:

6857 (i) participate in the activities offered by or through a business resource center; and

6858 (ii) provide personnel or other appropriate links to the center.

6859 (c) (i) Other entities that are not initially involved in the establishment of a business
6860 resource center and that are capable of providing supportive services to Utah businesses may
6861 apply to the center to become a provider of services at the center.

6862 (ii) Entities identified in Subsections (5)(a) and (b) shall provide the board with a
6863 service plan, to include funding, which would be made available or supplied to cover the
6864 expenses of their services offered at a business resource center.

6865 (iii) The board shall review each application made under Subsection (5)(c)(i) and make
6866 a recommendation for approval by the office as a precondition for providing the service being
6867 offered.

6868 (6) A business resource center may:

6869 (a) partner with the office, other host institutions, and other entities to develop and
6870 establish web-based access to virtual business resource center services over the Internet to
6871 assist in establishing and growing businesses in the state, particularly in those situations where
6872 traveling to a business resource center site is not practical;

6873 (b) develop a data base and software for:

6874 (i) tracking clients and their progress; and

6875 (ii) tracking responses and services provided by state agencies and evaluating their
6876 effectiveness; and

6877 (c) develop outreach programs and services targeted to business clients in rural areas of
6878 the state.

6879 (7) The office shall include in the annual written report described in Section
6880 [~~63M-1-206~~] 63N-1-301, a report on measured performance of economic development
6881 programs offered by or through established business resource centers.

6882 Section 167. Section **63N-3-305**, which is renumbered from Section 63M-1-2705 is
6883 renumbered and amended to read:

6884 [~~63M-1-2705~~]. **63N-3-305. Duties and responsibilities.**

6885 (1) A business resource center shall:

6886 (a) have a director;

6887 (b) be the organization responsible for identifying, tracking, coordinating, and
6888 measuring output of assisted business clients in its region;

6889 (c) develop programs to aid business clients in finding the resources they need;

6890 (d) recruit state funded agencies to locate and establish their programs in the business
6891 center's region;

6892 (e) initiate and encourage business education programs, including programs in
6893 collaboration with public, private, and governmental and educational institutions; and

6894 (f) work with the host institution in providing academic resources, including faculty
6895 and student assistance.

6896 (2) A business resource center shall collaborate with the host institution and state
6897 agencies to:

6898 (a) provide research, development, or training programs for new or existing businesses,
6899 industries, or high technology business located in its region;

6900 (b) assist in providing needs assessment relating to new or existing businesses,
6901 industries, or high technology business in conjunction with other public or private economic
6902 development programs or initiatives;

6903 (c) assist in providing business incubator space or services, or both, if considered
6904 feasible and practical, to clients based on criteria established by the office in consultation with
6905 the board;

6906 (d) work with local business leaders and government officials to help them formulate
6907 and implement sound, coordinated, and measurable economic development programs for their
6908 communities; and

6909 (e) work with local government and other entities in its region in developing and

6910 certifying non-state funded satellite business resource centers.

6911 Section 168. Section **63N-3-306**, which is renumbered from Section 63M-1-2706 is
6912 renumbered and amended to read:

6913 ~~[63M-1-2706]~~. **63N-3-306. Utah Business Assistance Advisory Board --**
6914 **Creation -- Membership -- Vacancies -- Chairs.**

6915 (1) There is created the Utah Business Assistance Advisory Board, composed of at
6916 least 13 members appointed by the executive director of the [~~Governor's Office of Economic~~
6917 ~~Development~~] office.

6918 (2) (a) The executive director shall appoint:

6919 (i) one member from three host institutions of business resource centers on a rotating
6920 basis;

6921 (ii) three members from urban areas in the state;

6922 (iii) two members from rural areas in the state; and

6923 (iv) one member from each host institution of a statewide business service provider.

6924 (b) The executive director may appoint ex officio board members who are sponsors of
6925 or partners with statewide business server providers.

6926 (3) Each board member shall have a background or expertise in any one or all of the
6927 following:

6928 (a) state or local economic development;

6929 (b) business networking, growth, or development;

6930 (c) entrepreneurship;

6931 (d) business management or administration; or

6932 (e) the establishment of partnerships or collaborative efforts with state, local, and
6933 federal agencies and institutions, as well as private entities.

6934 (4) (a) The executive director shall appoint board members for four-year terms.

6935 (b) The board shall, at the time of appointment or reappointment, adjust the length of
6936 terms to ensure that the terms of these members are staggered so that approximately half of the
6937 members are appointed every two years.

6938 (c) When a vacancy occurs in the membership for any reason, the replacement shall be
6939 appointed by the executive director for the unexpired term in the same manner as the vacated
6940 member was chosen.

- 6941 (5) The board shall elect one of its members as a chair of the board for a two-year term.
6942 (6) The board shall meet at the call of the chair, but at least quarterly.
6943 (7) (a) A majority of the members of the board constitute a quorum.
6944 (b) The action of a majority of a quorum constitutes the action of the board.
6945 (8) A member may not receive compensation or benefits for the member's service, but
6946 may receive per diem and travel expenses in accordance with:
6947 (a) Section [63A-3-106](#);
6948 (b) Section [63A-3-107](#); and
6949 (c) rules made by the Division of Finance [~~pursuant to~~] under Sections [63A-3-106](#) and
6950 [63A-3-107](#).

6951 Section 169. Section **63N-3-307**, which is renumbered from Section 63M-1-2707 is
6952 renumbered and amended to read:

6953 ~~[63M-1-2707]~~. **63N-3-307. Duties.**

6954 The board shall:

- 6955 (1) assist the office in providing operational oversight, coordination, and performance
6956 review and provide advice and improve the effectiveness of state-funded business assistance
6957 programs throughout the state as designated by the executive director;
6958 (2) make recommendations to the office on requirements for the requisite certification
6959 of each business resource center and staff at each center by the executive director;
6960 (3) make recommendations to the office for certification of the business plans the
6961 board is required to review under Subsection [~~63M-1-2704~~] 63N-3-304(5)(c)(iii);
6962 (4) at the direction of the executive director:
6963 (a) assist the office in providing operational oversight to and coordination of the
6964 business resource centers established under this part; and
6965 (b) work closely with the Governor's Office of Economic Development's Board of
6966 Business and Economic Development;
6967 (5) identify issues and make recommendations to the office regarding programs,
6968 policies, and procedures that could be implemented by:
6969 (a) business resource centers in fulfilling their duties and responsibilities under Section
6970 [~~63M-1-2705~~] 63N-3-305; and
6971 (b) state-funded business service providers;

6972 (6) make budget recommendations to the office regarding the operation and staffing of
6973 business resource centers established under this part;

6974 (7) recommend matching fund exceptions under Subsection [~~63M-1-2704~~]
6975 63N-3-304(3);

6976 (8) recommend certification of all non-state funded satellite business resource centers;
6977 and

6978 (9) establish metrics to report the performance of economic development output in
6979 each region serviced by a business resource center.

6980 Section 170. Section **63N-3-401**, which is renumbered from Section 63M-1-2201 is
6981 renumbered and amended to read:

6982 **Part 4. Transient Room Tax Fund Act**

6983 [~~63M-1-2201~~]. 63N-3-401. Title.

6984 This part is known as the "Transient Room Tax Fund Act."

6985 Section 171. Section **63N-3-402**, which is renumbered from Section 63M-1-2202 is
6986 renumbered and amended to read:

6987 [~~63M-1-2202~~]. 63N-3-402. Definitions.

6988 As used in this part, "fund" means the Transient Room Tax Fund created by Section
6989 [~~63M-1-2203~~] 63N-3-403.

6990 Section 172. Section **63N-3-403**, which is renumbered from Section 63M-1-2203 is
6991 renumbered and amended to read:

6992 [~~63M-1-2203~~]. 63N-3-403. **Transient Room Tax Fund -- Source of revenues**
6993 **-- Interest -- Expenditure or pledge of revenues.**

6994 (1) There is created an expendable special revenue fund known as the Transient Room
6995 Tax Fund.

6996 (2) (a) The fund shall be funded by the portion of the sales and use tax described in
6997 Subsection ~~59-12-301~~(2).

6998 (b) (i) The fund shall earn interest.

6999 (ii) Any interest earned on fund money shall be deposited into the fund.

7000 (3) (a) Subject to Subsection (3)(b), the executive director shall expend or pledge the
7001 money deposited into the fund:

7002 (i) to mitigate the impacts of traffic and parking relating to a convention facility within

7003 a county of the first class;

7004 (ii) for a purpose listed in Section 17-31-2, except that any requirements in Section
7005 17-31-2 for the expenditure of money do not apply; or

7006 (iii) for a combination of Subsections (3)(a)(i) and (ii).

7007 (b) The executive director may not expend more than \$20,000,000 in total to mitigate
7008 the impacts of traffic and parking relating to a convention facility within a county of the first
7009 class.

7010 Section 173. Section **63N-4-101**, which is renumbered from Section 63M-1-1601 is
7011 renumbered and amended to read:

7012 **CHAPTER 4. RURAL DEVELOPMENT ACT**

7013 **Part 1. Office of Rural Development**

7014 ~~[63M-1-1601]~~. **63N-4-101. Title -- Definitions.**

7015 (1) This ~~[part]~~ chapter is known as the "Rural Development Act."

7016 (2) This part is known as the "Office of Rural Development."

7017 ~~[(2)]~~ (3) As used in this part:

7018 (a) "Office" or "GOED" means the Governor's Office of Economic Development.

7019 (b) "Program" means the Rural Development Program.

7020 Section 174. Section **63N-4-102**, which is renumbered from Section 63M-1-1602 is
7021 renumbered and amended to read:

7022 ~~[63M-1-1602]~~. **63N-4-102. Rural Development Program -- Supervision by**
7023 **office.**

7024 (1) There is created within the Governor's Office of Economic Development the Office
7025 of Rural Development.

7026 (2) The Office of Rural Development is under the administration and general
7027 supervision of the Governor's Office of Economic Development.

7028 Section 175. Section **63N-4-103**, which is renumbered from Section 63M-1-1603 is
7029 renumbered and amended to read:

7030 ~~[63M-1-1603]~~. **63N-4-103. Purpose of the Office of Rural Development.**

7031 The Office of Rural Development is established to:

7032 (1) foster and support economic development programs and activities for the benefit of
7033 rural counties and communities;

- 7034 (2) foster and support community, county, and resource management planning
 7035 programs and activities for the benefit of rural counties and communities;
- 7036 (3) foster and support leadership training programs and activities for the benefit of:
 7037 (a) rural leaders in both the public and private sectors;
 7038 (b) economic development and planning personnel; and
 7039 (c) rural government officials;
- 7040 (4) foster and support efforts to coordinate and focus the technical and other resources
 7041 of appropriate institutions of higher education, local governments, private sector interests,
 7042 associations, nonprofit organizations, federal agencies, and others, in ways that address the
 7043 economic development, planning, and leadership challenges and priorities of rural Utah as
 7044 identified in the strategic plan required under Subsection [63C-10-103](#)(1)(b);
- 7045 (5) work to enhance the capacity of [~~the Governor's Office of Economic Development~~]
 7046 GOED to address rural economic development, planning, and leadership training challenges
 7047 and opportunities by establishing partnerships and positive working relationships with
 7048 appropriate public and private sector entities, individuals, and institutions; and
- 7049 (6) foster government-to-government collaboration and good working relations
 7050 between state and rural government regarding economic development and planning issues.
- 7051 Section 176. Section **63N-4-104**, which is renumbered from Section 63M-1-1604 is
 7052 renumbered and amended to read:
- 7053 ~~[63M-1-1604].~~ **63N-4-104. Duties.**
- 7054 (1) The Office of Rural Development shall:
- 7055 (a) provide staff support to the Governor's Rural Partnership Board in accordance with
 7056 Subsection [63C-10-102](#)(6);
- 7057 (b) facilitate within [~~the Governor's Office of Economic Development~~] GOED the
 7058 implementation of the strategic plan prepared under Subsection [63C-10-103](#)(1)(b);
- 7059 (c) work to enhance the capacity of [~~the Governor's Office of Economic Development~~]
 7060 GOED to address rural economic development, planning, and leadership training challenges
 7061 and opportunities by establishing partnerships and positive working relationships with
 7062 appropriate public and private sector entities, individuals, and institutions;
- 7063 (d) work with the Governor's Rural Partnership Board to coordinate and focus
 7064 available resources in ways that address the economic development, planning, and leadership

7065 training challenges and priorities in rural Utah; and

7066 (e) in accordance with economic development and planning policies set by state

7067 government, coordinate relations between:

7068 (i) the state;

7069 (ii) rural governments;

7070 (iii) other public and private groups engaged in rural economic planning and

7071 development; and

7072 (iv) federal agencies.

7073 (2) (a) The Office of Rural Development may:

7074 (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

7075 make rules necessary to carry out its duties;

7076 (ii) accept gifts, grants, devises, and property, in cash or in kind, for the benefit of rural

7077 Utah citizens; and

7078 (iii) use those gifts, grants, devises, and property received under Subsection (2)(a)(ii)

7079 for the use and benefit of rural citizens within the state.

7080 (b) All resources received under Subsection (2)(a)(ii) shall be deposited in the General

7081 Fund as dedicated credits to be used as directed in Subsection (2)(a)(iii).

7082 Section 177. Section **63N-4-105**, which is renumbered from Section 63M-1-1605 is

7083 renumbered and amended to read:

7084 ~~[63M-1-1605]~~. **63N-4-105. Program manager.**

7085 (1) The executive director of [~~the Governor's Office of Economic Development~~]

7086 GOED shall appoint a director for the Office of Rural Development with the approval of the

7087 governor.

7088 (2) The director of the Office of Rural Development shall be a person knowledgeable

7089 in the field of rural economic development and planning and experienced in administration.

7090 (3) Upon change of the executive director of [~~the Governor's Office of Economic~~

7091 ~~Development~~] GOED, the director of the Office of Rural Development may not be dismissed

7092 without cause for at least 180 days.

7093 (4) The director of the Office of Rural Development shall serve as staff to the

7094 Governor's Rural Partnership Board and to the executive committee of the Governor's Rural

7095 Partnership Board in accordance with Subsection **63C-10-102**(6).

7096 Section 178. Section **63N-4-106**, which is renumbered from Section 63M-1-1606 is
7097 renumbered and amended to read:

7098 ~~[63M-1-1606].~~ **63N-4-106. Annual report.**

7099 [The office] GOED shall include in the annual written report described in Section
7100 [~~63M-1-206~~] 63N-1-301, a report of the program's operations and recommendations.

7101 Section 179. Section **63N-4-201**, which is renumbered from Section 63M-1-2001 is
7102 renumbered and amended to read:

7103 **Part 2. Business Development for Disadvantaged Rural Communities Act**

7104 ~~[63M-1-2001].~~ **63N-4-201. Title.**

7105 This part is known as the "Business Development for Disadvantaged Rural
7106 Communities Act."

7107 Section 180. Section **63N-4-202**, which is renumbered from Section 63M-1-2002 is
7108 renumbered and amended to read:

7109 ~~[63M-1-2002].~~ **63N-4-202. Definitions.**

7110 As used in this part:

7111 [~~(1)~~] "Board" means the Board of Business and Economic Development created by
7112 ~~Section 63M-1-301.~~]

7113 [~~(2)~~] (1) "Business incubator expense" means an expense relating to funding a program
7114 that is:

7115 (a) designed to provide business support services and resources to one or more
7116 business entities within a project area during the business entities' early stages of development;
7117 and

7118 (b) determined to be a business incubator by the board.

7119 [~~(3)~~] (2) "Business rehabilitation expense" means an expense relating to the renovation
7120 or rehabilitation of an existing building within a project area as determined by the board.

7121 [~~(4)~~] (3) "Debt service" means the payment of debt service on a bond issued to pay a:

7122 (a) business rehabilitation expense relating to a project; or

7123 (b) public infrastructure expense relating to a project.

7124 [~~(5)~~] (4) "Eligible county" means a county of the third, fourth, fifth, or sixth class.

7125 [~~(6)~~] (5) "Eligible expense" means an expense:

7126 (a) incurred by an eligible county;

- 7127 (b) relating to a project; and
- 7128 (c) that is:
- 7129 (i) a business incubator expense;
- 7130 (ii) debt service; or
- 7131 (iii) a public infrastructure expense.
- 7132 [~~(7)~~] (6) "Project" means an economic development project:
- 7133 (a) as determined by the board; and
- 7134 (b) for which an eligible county applies to the board in accordance with this part for a
- 7135 loan or grant to assist the eligible county in paying an eligible expense.
- 7136 [~~(8)~~] (7) "Project area" means the geographic area within which a project is
- 7137 implemented by an eligible county.
- 7138 [~~(9)~~] (8) "Public infrastructure expense" means an expense relating to a publicly owned
- 7139 improvement located within a project area if:
- 7140 (a) the expense is:
- 7141 (i) incurred for:
- 7142 (A) construction;
- 7143 (B) demolition;
- 7144 (C) design;
- 7145 (D) engineering;
- 7146 (E) an environmental impact study;
- 7147 (F) environmental remediation; or
- 7148 (G) rehabilitation; or
- 7149 (ii) similar to an expense described in Subsection [~~(9)~~] (8)(a)(i) as determined by the
- 7150 board; and
- 7151 (b) the publicly owned improvement is:
- 7152 (i) not a building as determined by the board; and
- 7153 (ii) necessary to support a project as determined by the board.
- 7154 [~~(10)~~] (9) "Publicly owned improvement" means an improvement to real property if:
- 7155 (a) the real property is owned by:
- 7156 (i) the United States;
- 7157 (ii) the state; or

- 7158 (iii) a political subdivision:
- 7159 (A) as defined in Section 17B-1-102; and
- 7160 (B) of the state; and
- 7161 (b) the improvement relates to:
- 7162 (i) a sewage system including a system for collection, transport, storage, treatment,
- 7163 dispersal, effluent use, or discharge;
- 7164 (ii) a drainage or flood control system, including a system for collection, transport,
- 7165 diversion, storage, detention, retention, dispersal, use, or discharge;
- 7166 (iii) a water system including a system for production, collection, storage, treatment,
- 7167 transport, delivery, connection, or dispersal;
- 7168 (iv) a highway, street, or road system for vehicular use for travel, ingress, or egress;
- 7169 (v) a rail transportation system;
- 7170 (vi) a system for pedestrian use for travel, ingress, or egress;
- 7171 (vii) a public utility system including a system for electricity, gas, or
- 7172 telecommunications; or
- 7173 (viii) a system or device that is similar to a system or device described in Subsections
- 7174 [~~(10)~~] (9)(b)(i) through (vii) as determined by the board.

7175 Section 181. Section 63N-4-203, which is renumbered from Section 63M-1-2004 is

7176 renumbered and amended to read:

7177 ~~[63M-1-2004].~~ **63N-4-203. Board authority to award a grant or loan to an**

7178 **eligible county -- Interest on a loan -- Eligible county proposal process -- Process for**

7179 **awarding a grant or loan.**

7180 (1) (a) Subject to the provisions of, and funds made available for, this section,

7181 beginning on July 1, 2005, through June 30, 2015, the board may make an award to an eligible

7182 county of one or more grants or loans to assist in paying an eligible expense relating to a

7183 project.

7184 (b) The total amount of grants and loans that the board may award in accordance with

7185 this section relating to one project is \$75,000.

7186 (c) If the board awards a loan to an eligible county in accordance with this section, the

7187 loan shall be subject to interest as provided by the procedures and methods referred to in

7188 Subsection (6).

7189 (2) (a) Before the board may award an eligible county a grant or loan in accordance
7190 with this section, the eligible county shall submit a written proposal to the board in accordance
7191 with Subsection (2)(b).

7192 (b) The proposal described in Subsection (2)(a) shall:

7193 (i) describe the project area;

7194 (ii) describe the characteristics of the project including a description of how the project
7195 will be implemented;

7196 (iii) provide an economic development plan for the project including a description of
7197 any eligible expenses that will be incurred as part of implementing the project;

7198 (iv) describe the characteristics of the community within which the project area is
7199 located;

7200 (v) establish that the community within which the project area is located is a
7201 disadvantaged community on the basis of one or more of the following factors:

7202 (A) median income per capita within the community;

7203 (B) median property tax revenues generated within the community;

7204 (C) median sales and use tax revenues generated within the community; or

7205 (D) unemployment rates within the community;

7206 (vi) demonstrate that there is a need for the project in the community within which the
7207 project area is located;

7208 (vii) describe the short-term and long-term benefits of the project to the community
7209 within which the project area is located;

7210 (viii) demonstrate that there is a need for assistance in paying eligible expenses relating
7211 to the project;

7212 (ix) indicate the amount of any revenues that will be pledged to match any funds the
7213 board may award as a loan or grant under this section; and

7214 (x) indicate whether there is support for the implementation of the project from:

7215 (A) the community within which the project area is located; and

7216 (B) any cities or towns within which the project area is located.

7217 (3) At the request of the board, representatives from an eligible county shall appear
7218 before the board to:

7219 (a) present a proposal submitted to the board in accordance with Subsection (2)(b); and

7220 (b) respond to any questions or issues raised by the board relating to eligibility to
7221 receive a grant or loan under this section.

7222 (4) The board shall:

7223 (a) consider a proposal submitted to the board in accordance with Subsection (2);

7224 (b) make written findings as to whether the proposal described in Subsection (4)(a)
7225 meets the requirements of Subsection (2)(b);

7226 (c) make written findings as to whether to award the eligible county that submitted the
7227 proposal described in Subsection (4)(a) one or more grants or loans:

7228 (i) on the basis of the factors established in Subsection (5);

7229 (ii) in consultation with the director; and

7230 (iii) in accordance with the procedures established for prioritizing which projects may
7231 be awarded a grant or loan by the board under this section;

7232 (d) if the board determines to award an eligible county a grant or loan in accordance
7233 with this section, make written findings in consultation with the director specifying the:

7234 (i) amount of the grant or loan;

7235 (ii) time period for distributing the grant or loan;

7236 (iii) terms and conditions that the eligible county shall meet to receive the grant or
7237 loan;

7238 (iv) structure of the grant or loan; and

7239 (v) eligible expenses for which the eligible county may expend the grant or loan;

7240 (e) if the board determines to award an eligible county a loan in accordance with this
7241 section, make written findings stating:

7242 (i) the method of calculating interest applicable to the loan; and

7243 (ii) procedures for:

7244 (A) applying interest to the loan; and

7245 (B) paying interest on the loan; and

7246 (f) provide the written findings required by Subsections (4)(b) through (e) to the
7247 eligible county.

7248 (5) For purposes of Subsection (4)(c), the board shall consider the following factors in
7249 determining whether to award an eligible county one or more grants or loans authorized by this
7250 part:

- 7251 (a) whether the project is likely to result in economic development in the community
7252 within which the project area is located;
- 7253 (b) whether the community within which the project area is located is a disadvantaged
7254 community on the basis of one or more of the following factors:
- 7255 (i) median income per capita within the community;
- 7256 (ii) median property tax revenues generated within the community;
- 7257 (iii) median sales and use tax revenues generated within the community; or
- 7258 (iv) unemployment rates within the community;
- 7259 (c) whether there is a need for the project in the community within which the project
7260 area is located;
- 7261 (d) whether the project is likely to produce short-term and long-term benefits to the
7262 community within which the project area is located;
- 7263 (e) whether the project would be successfully implemented without the board awarding
7264 a grant or a loan to the eligible county;
- 7265 (f) whether any revenues will be pledged to match any funds the board may award as a
7266 grant or loan under this section;
- 7267 (g) whether there is support for the implementation of the project from:
- 7268 (i) the community within which the project area is located; and
- 7269 (ii) any cities or towns within which the project area is located; and
- 7270 (h) any other factor as determined by the board.
- 7271 (6) The office shall establish procedures:
- 7272 (a) for prioritizing which projects may be awarded a grant or loan by the board under
7273 this section; and
- 7274 (b) for loans awarded in accordance with this section:
- 7275 (i) the methods of calculating interest applicable to the loans; and
- 7276 (ii) procedures for:
- 7277 (A) applying interest to the loans; and
- 7278 (B) paying interest on the loans.
- 7279 Section 182. Section **63N-4-204**, which is renumbered from Section 63M-1-2005 is
7280 renumbered and amended to read:
- 7281 ~~[63M-1-2005]~~. **63N-4-204**. **Agreement between the executive director and an**

7282 **eligible county -- Failure to meet or violation of a term or condition of an agreement.**

7283 (1) Before an eligible county that has been awarded a grant or loan in accordance with
7284 Section [~~63M-1-2004~~] 63N-4-203 may receive the grant or loan, the eligible county shall enter
7285 into a written agreement with the executive director.

7286 (2) The written agreement described in Subsection (1):

7287 (a) shall:

7288 (i) specify the amount of the grant or loan;

7289 (ii) specify the time period for distributing the grant or loan;

7290 (iii) specify the terms and conditions that the eligible county shall meet to receive the
7291 grant or loan;

7292 (iv) specify the structure of the grant or loan;

7293 (v) specify the eligible expenses for which the eligible county may expend the grant or
7294 loan;

7295 (vi) if the eligible county has been awarded a loan:

7296 (A) specify the repayment schedule for the loan;

7297 (B) specify the method of calculating interest applicable to the loan; and

7298 (C) specify procedures for:

7299 (I) applying interest to the loan; and

7300 (II) paying interest on the loan; and

7301 (vii) subject to Subsection (3), contain provisions governing the failure to meet or the
7302 violation of a term or condition of the agreement; and

7303 (b) may contain any other provision as determined by the director.

7304 (3) (a) Except as provided in Subsection (3)(b), and subject to Subsection (3)(c), if an
7305 eligible county fails to meet or violates any provision of the agreement described in Subsection
7306 (2), the board shall impose one or more of the following penalties:

7307 (i) require the eligible county to repay all or a portion of the amount of any grant or
7308 loan the eligible county received in an amount determined by the board;

7309 (ii) provide that an eligible county may not receive any amounts of a grant or loan that
7310 the eligible county has been awarded in accordance with Section [~~63M-1-2004~~] 63N-4-203 but
7311 has not received; or

7312 (iii) provide that an eligible county may not be awarded a grant or loan under this part

7313 for a time period determined by the board.

7314 (b) Notwithstanding Subsection (3)(a), the board may waive, reduce, or compromise a
7315 penalty described in Subsection (3)(a) if an eligible county demonstrates that reasonable cause
7316 exists for the eligible county failing to meet or violating a provision of the agreement described
7317 in Subsection (2).

7318 (c) If the board imposes a penalty in accordance with this Subsection (3) on an eligible
7319 county, the board shall provide written notice of the penalty to the eligible county within 10
7320 calendar days after the day on which the board determines to impose the penalty.

7321 Section 183. Section **63N-4-205**, which is renumbered from Section 63M-1-2006 is
7322 renumbered and amended to read:

7323 ~~[63M-1-2006]~~. **63N-4-205. Report on amount of grants and loans, projects,**
7324 **and outstanding debt.**

7325 The board shall annually provide the following information to the office for inclusion in
7326 the office's annual written report described in Section ~~[63M-1-206]~~ 63N-1-301:

7327 (1) the total amount of grants and loans the board awarded to eligible counties under
7328 this part during the fiscal year that ended on the June 30 immediately preceding the November
7329 interim meeting;

7330 (2) a description of the projects with respect to which the board awarded a grant or loan
7331 under this part;

7332 (3) the total amount of outstanding debt service that is being repaid by a grant or loan
7333 awarded under this part;

7334 (4) whether the grants and loans awarded under this part have resulted in economic
7335 development within project areas; and

7336 (5) whether the board recommends:

7337 (a) that the grants and loans authorized by this part should be continued; or

7338 (b) any modifications to this part.

7339 Section 184. Section **63N-5-101**, which is renumbered from Section 63M-1-3001 is
7340 renumbered and amended to read:

7341 **CHAPTER 5. PRIVATE ACTIVITY BONDS**

7342 **Part 1. Private Activity Bonds**

7343 ~~[63M-1-3001]~~. **63N-5-101. Title -- Purpose.**

7344 (1) This chapter is known as "Private Activity Bonds."

7345 (2) It is the intent of the Legislature to establish procedures to most effectively and
7346 equitably allocate this state's private activity bond volume cap authorized by the Internal
7347 Revenue Code of 1986 in order to maximize the social and economic benefits to this state.

7348 Section 185. Section **63N-5-102**, which is renumbered from Section 63M-1-3002 is
7349 renumbered and amended to read:

7350 ~~[63M-1-3002]~~. **63N-5-102. Definitions.**

7351 As used in this part:

7352 (1) "Allocated volume cap" means a volume cap for which a certificate of allocation is
7353 in effect or for which bonds have been issued.

7354 (2) "Allotment accounts" means the various accounts created in Section ~~[63M-1-3006]~~
7355 63N-5-106.

7356 (3) "Board of review" means the Private Activity Bond Review Board created in
7357 Section ~~[63M-1-3003]~~ 63N-5-103.

7358 (4) "Bond" means any obligation for which an allocation of volume cap is required by
7359 the code.

7360 (5) "Code" means the Internal Revenue Code of 1986, as amended, and any related
7361 Internal Revenue Service regulations.

7362 (6) "Form 8038" means the Department of the Treasury tax form 8038 (OMB No.
7363 1545-0720) or any other federal tax form or other method of reporting required by the
7364 Department of the Treasury under Section 149(e) of the code.

7365 (7) "Issuing authority" means:

7366 (a) any county, city, or town in the state;

7367 (b) any not-for-profit corporation or joint agency, or other entity acting on behalf of
7368 one or more counties, cities, towns, or any combination of these;

7369 (c) the state; or

7370 (d) any other entity authorized to issue bonds under state law.

7371 (8) "State" means the state of Utah and any of its agencies, institutions, and divisions
7372 authorized to issue bonds or certificates under state law.

7373 (9) "Volume cap" means the private activity bond volume cap for the state as computed
7374 under Section 146 of the code.

7375 (10) "Year" means each calendar year.

7376 Section 186. Section **63N-5-103**, which is renumbered from Section 63M-1-3003 is
7377 renumbered and amended to read:

7378 ~~[63M-1-3003].~~ **63N-5-103. Private Activity Bond Review Board.**

7379 (1) There is created within the office the Private Activity Bond Review Board,
7380 composed of the following 11 members [~~as follows~~]:

7381 [~~(a) five ex officio members who are:~~]

7382 (a) (i) the executive director of the office or the executive director's designee;

7383 [~~(ii) the director of the Division of Business and Economic Development or the~~
7384 ~~director's designee;]~~

7385 (ii) an employee of the office designated by the executive director;

7386 (iii) the state treasurer or the treasurer's designee;

7387 (iv) the chair of the Board of Regents or the chair's designee; and

7388 (v) the chair of the Utah Housing Corporation or the chair's designee; and

7389 (b) six local government members who are:

7390 (i) three elected or appointed county officials, nominated by the Utah Association of
7391 Counties and appointed by the governor with the consent of the Senate; and

7392 (ii) three elected or appointed municipal officials, nominated by the Utah League of
7393 Cities and Towns and appointed by the governor with the consent of the Senate.

7394 (2) (a) Except as required by Subsection (2)(b), the terms of office for the local
7395 government members of the board of review shall be four-year terms.

7396 (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the
7397 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
7398 board members are staggered so that approximately half of the board is appointed every two
7399 years.

7400 (c) Members may be reappointed only once.

7401 (3) (a) If a local government member ceases to be an elected or appointed official of
7402 the city or county the member is appointed to represent, that membership on the board of
7403 review terminates immediately and there shall be a vacancy in the membership.

7404 (b) When a vacancy occurs in the membership for any reason, the replacement shall be
7405 appointed within 30 days in the manner of the regular appointment for the unexpired term, and

7406 until his successor is appointed and qualified.

7407 (4) (a) The chair of the board of review is the executive director of the office or the
7408 executive director's designee.

7409 (b) The chair is nonvoting except in the case of a tie vote.

7410 (5) Six members of the board of review constitute a quorum.

7411 (6) Formal action by the board of review requires a majority vote of a quorum.

7412 (7) A member may not receive compensation or benefits for the member's service, but
7413 may receive per diem and travel expenses in accordance with:

7414 (a) Section [63A-3-106](#);

7415 (b) Section [63A-3-107](#); and

7416 (c) rules made by the Division of Finance [~~pursuant to~~] under Sections [63A-3-106](#) and
7417 [63A-3-107](#).

7418 (8) The chair of the board of review serves as the state official designated under state
7419 law to make certifications required to be made under Section 146 of the code including the
7420 certification required by Section 149(e)(2)(F) of the code.

7421 Section 187. Section **63N-5-104**, which is renumbered from Section 63M-1-3004 is
7422 renumbered and amended to read:

7423 ~~**[63M-1-3004].**~~ **63N-5-104. Powers, functions, and duties of board of review.**

7424 The board of review shall:

7425 (1) make, subject to the limitations of the code, allocations of volume cap to issuing
7426 authorities;

7427 (2) determine the amount of volume cap to be allocated with respect to approved
7428 applications;

7429 (3) maintain a record of all applications filed by issuing authorities under Section
7430 [~~63M-1-3005~~] 63N-5-105 and all certificates of allocation issued under Section [~~63M-1-3007~~]
7431 63N-5-107;

7432 (4) maintain a record of all bonds issued by issuing authorities during each year;

7433 (5) determine the amount of volume cap to be treated as a carryforward under Section
7434 146(f) of the code and allocate this carryforward to one or more qualified carryforward
7435 purposes;

7436 (6) make available upon reasonable request a certified copy of all or any part of the

7437 records maintained by the board of review under this part or a summary of them, including
7438 information relating to the volume cap for each year and any amounts available for allocation
7439 under this part;

7440 (7) promulgate rules for the allocation of volume cap under this part; and

7441 (8) charge reasonable fees for the performance of duties prescribed by this part,
7442 including application, filing, and processing fees.

7443 Section 188. Section **63N-5-105**, which is renumbered from Section 63M-1-3005 is
7444 renumbered and amended to read:

7445 ~~[63M-1-3005].~~ **63N-5-105. Allocation of volume cap.**

7446 (1) (a) Subject to Subsection (1)(b), the volume cap for each year shall be distributed
7447 by the board of review to the various allotment accounts as set forth in Section [~~63M-1-3006~~]
7448 63N-5-106.

7449 (b) The board of review may distribute up to 50% of each increase in the volume cap
7450 [~~that occurs after March 11, 1999;~~] for use in development that occurs in quality growth areas,
7451 depending upon the board's analysis of the relative need for additional volume cap between
7452 development in quality growth areas and the allotment accounts under Section [~~63M-1-3006~~]
7453 63N-5-106.

7454 (2) To obtain an allocation of the volume cap, issuing authorities shall submit to the
7455 board of review an application containing information required by the procedures and
7456 processes of the board of review.

7457 (3) (a) The board of review shall establish criteria for making allocations of volume
7458 cap that are consistent with the purposes of the code and this part.

7459 (b) In making an allocation of volume cap the board of review shall consider the
7460 following:

7461 (i) the principal amount of the bonds proposed to be issued;

7462 (ii) the nature and the location of the project or the type of program;

7463 (iii) the likelihood that the bonds will be sold and the timeframe of bond issuance;

7464 (iv) whether the project or program could obtain adequate financing without an
7465 allocation of volume cap;

7466 (v) the degree to which an allocation of volume cap is required for the project or
7467 program to proceed or continue;

7468 (vi) the social, health, economic, and educational effects of the project or program on
7469 the local community and state as a whole;

7470 (vii) the anticipated economic development created or retained within the local
7471 community and the state as a whole;

7472 (viii) the anticipated number of jobs, both temporary and permanent, created or
7473 retained within the local community and the state as a whole;

7474 (ix) if the project is a residential rental project, the degree to which the residential
7475 rental project:

7476 (A) targets lower income populations; and

7477 (B) is accessible housing; and

7478 (x) whether the project meets the principles of quality growth recommended by the
7479 Quality Growth Commission created under Section [11-38-201](#).

7480 (4) The board of review shall evidence an allocation of volume cap by issuing a
7481 certificate in accordance with Section ~~[63M-1-3007]~~ [63N-5-107](#).

7482 (5) (a) From January 1 to June 30, the board shall set aside at least 50% of the Small
7483 Issue Bond Account that may be allocated only to manufacturing projects.

7484 (b) From July 1 to August 15, the board shall set aside at least 50% of the Pool
7485 Account that may be allocated only to manufacturing projects.

7486 Section 189. Section **63N-5-106**, which is renumbered from Section 63M-1-3006 is
7487 renumbered and amended to read:

7488 ~~[63M-1-3006]~~. **63N-5-106. Allotment accounts.**

7489 (1) There are created the following allotment accounts:

7490 (a) the Single Family Housing Account, for which eligible issuing authorities are those
7491 authorized under the code and state statute to issue qualified mortgage bonds under Section 143
7492 of the code;

7493 (b) the Student Loan Account, for which eligible issuing authorities are those
7494 authorized under the code and state statute to issue qualified student loan bonds under Section
7495 144(b) of the code;

7496 (c) the Small Issue Bond Account, for which eligible issuing authorities are those
7497 authorized under the code and state statute to issue:

7498 (i) qualified small issue bonds under Section 144(a) of the code;

- 7499 (ii) qualified exempt facility bonds for qualified residential rental projects under
7500 Section 142(d) of the code; or
- 7501 (iii) qualified redevelopment bonds under Section 144(c) of the code;
- 7502 (d) the Exempt Facilities Account, for which eligible issuing authorities are those
7503 authorized under the code and state statute to issue any bonds requiring an allocation of volume
7504 cap other than for purposes described in Subsections (1)(a), (b), or (c);
- 7505 (e) the Pool Account, for which eligible issuing authorities are those authorized under
7506 the code and state statute to issue any bonds requiring an allocation of volume cap; and
- 7507 (f) the Carryforward Account, for which eligible issuing authorities are those with
7508 projects or programs qualifying under Section 146(f) of the code.
- 7509 (2) (a) The volume cap shall be distributed to the various allotment accounts on
7510 January 1 of each year on the following basis:
- 7511 (i) 42% to the Single Family Housing Account;
- 7512 (ii) 33% to the Student Loan Account;
- 7513 (iii) 1% to the Exempt Facilities Account; and
- 7514 (iv) 24% to the Small Issue Bond Account.
- 7515 (b) From July 1 to September 30 of each year, the board of review may transfer any
7516 unallocated volume cap from the Exempt Facilities Account or the Small Issue Bond Account
7517 to the Pool Account.
- 7518 (c) The board of review, upon written notification by the issuing authorities eligible for
7519 volume cap allocation from the Single Family Housing Account or the Student Loan Account
7520 that all or a portion of volume cap distributed into that allotment account will not be used, may
7521 transfer the unused volume cap between the Single Family Housing Account and the Student
7522 Loan Account.
- 7523 (d) From October 1 to the third Friday of December of each year, the board of review
7524 shall transfer all unallocated volume cap into the Pool Account.
- 7525 (e) On the third Saturday of December, the board of review shall transfer uncollected
7526 volume cap or allocated volume cap for which bonds have not been issued prior to the third
7527 Saturday of December into the Carryforward Account.
- 7528 (f) If the authority to issue bonds designated in any allotment account is rescinded by
7529 amendment to the code, the board of review may transfer any unallocated volume cap from that

7530 allotment account to any other allotment account.

7531 Section 190. Section **63N-5-107**, which is renumbered from Section 63M-1-3007 is
7532 renumbered and amended to read:

7533 ~~[63M-1-3007]~~. **63N-5-107. Certificates of allocation.**

7534 (1) (a) After an allocation of volume cap for a project or program is approved by the
7535 board of review, the board shall issue a numbered certificate of allocation stating the amount of
7536 the allocation, the allotment account for which the allocation is being made, and the expiration
7537 date of the allocation.

7538 (b) The certificates of allocation shall be mailed to the issuing authority within 10
7539 working days of the date of approval.

7540 (c) No bonds are entitled to any allocation of the volume cap unless the issuing
7541 authority received a certificate of allocation with respect to the bonds.

7542 (d) (i) Certificates of allocation shall remain in effect for a period of 90 days from the
7543 date of approval.

7544 (ii) If bonds for which a certificate has been approved are not issued within the 90-day
7545 period, the certificate of allocation is void and volume cap shall be returned to the applicable
7546 allotment account for reallocation by the board of review.

7547 (2) (a) An issuing authority receiving an allocation of volume cap from the
7548 Carryforward Account shall receive a certificate of allocation similar to the certificates of
7549 allocation described in Subsection (1) from the board of review stating the amount of allocation
7550 from the Carryforward Account that has been allocated to the issuing authority and the
7551 expiration of the allocation.

7552 (b) If in the judgment of the board of review an issuing authority or a person or entity
7553 responsible for a project or program receiving an allocation from the Carryforward Account
7554 does not proceed with diligence in providing for the issuance of the bonds with respect to the
7555 project or program, and because of the lack of diligence the volume cap cannot be used, the
7556 board of review may exclude from its consideration for a given period of time, determined by
7557 the board of review, an application of the issuing authority, person, or entity. The board of
7558 review may, at any time, review and modify its decisions relating to this exclusion.

7559 Section 191. Section **63N-5-108**, which is renumbered from Section 63M-1-3008 is
7560 renumbered and amended to read:

7561 ~~[63M-1-3008]~~. 63N-5-108. Issuing authorities -- Limitations -- Duties.

7562 (1) (a) Any law to the contrary notwithstanding, an issuing authority issuing bonds
7563 without a certificate of allocation issued under Section ~~[63M-1-3007]~~ 63N-5-107, or an issuing
7564 authority issuing bonds after the expiration of a certificate of allocation, is not entitled to an
7565 allocation of the volume cap for those bonds.

7566 (b) An issuing authority issuing bonds in excess of the amount set forth in the related
7567 certificate of allocation is not entitled to an allocation of the volume cap for the excess.

7568 (2) Each issuing authority shall:

7569 (a) advise the board of review, within 15 days after the issuance of bonds, of the
7570 principal amount of bonds issued under each certificate of allocation by delivering to the board
7571 of review a copy of the Form 8038 that was delivered or shall be delivered to the Internal
7572 Revenue Service in connection with the bonds, or, if no Form 8038 is required to be delivered
7573 to the Internal Revenue Service, a completed copy of a Form 8038 prepared for the board of
7574 review with respect to the bonds; and

7575 (b) if all or a stated portion of the bonds for which a certificate of allocation was
7576 received will not be issued, advise the board of review in writing, within 15 days of the earlier
7577 of:

7578 (i) the final decision not to issue all or a stated portion of the bonds; or

7579 (ii) the expiration of the certificate of allocation.

7580 (3) Failure by an issuing authority to notify the board of review under Subsection (2),
7581 including failure to timely deliver a Form 8038, may, in the sole discretion of the board of
7582 review, result in the issuing authority being denied further consideration of applications.

7583 Section 192. Section 63N-5-109, which is renumbered from Section 63M-1-3009 is
7584 renumbered and amended to read:

7585 ~~[63M-1-3009]~~. 63N-5-109. Procedures -- Adjudicative proceedings.

7586 The board of review shall comply with the procedures and requirements of Title 63G,
7587 Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.

7588 Section 193. Section 63N-5-110 is enacted to read:

7589 63N-5-110. Duties of office.

7590 (1) The office is recognized as an issuing authority as defined in Section 63N-5-102,
7591 entitled to issue bonds from the Small Issue Bond Account created in Subsection

7592 63N-5-106(1)(c) as a part of the state's private activity bond volume cap authorized by the
 7593 Internal Revenue Code and computed under Section 146, Internal Revenue Code.

7594 (2) To promote and encourage the issuance of bonds from the Small Issue Bond
 7595 Account for manufacturing projects, the office may:

7596 (a) develop campaigns and materials that inform qualified small manufacturing
 7597 businesses about the existence of the program and the application process;

7598 (b) assist small businesses in applying for and qualifying for these bonds; and

7599 (c) develop strategies to lower the cost to small businesses of applying for and
 7600 qualifying for these bonds, including making arrangements with financial advisors,
 7601 underwriters, bond counsel, and other professionals involved in the issuance process to provide
 7602 their services at a reduced rate when the division can provide them with a high volume of
 7603 applicants or issues.

7604 Section 194. Section **63N-6-101**, which is renumbered from Section 63M-1-1201 is
 7605 renumbered and amended to read:

7606 **CHAPTER 6. UTAH VENTURE CAPITAL ENHANCEMENT ACT**

7607 **Part 1. General Provisions**

7608 ~~[63M-1-1201].~~ **63N-6-101. Title.**

7609 This ~~[part]~~ chapter is known as the "Utah Venture Capital Enhancement Act."

7610 Section 195. Section **63N-6-102**, which is renumbered from Section 63M-1-1202 is
 7611 renumbered and amended to read:

7612 ~~[63M-1-1202].~~ **63N-6-102. Findings -- Purpose.**

7613 (1) The Legislature finds that:

7614 (a) fundamental changes have occurred in national and international financial markets
 7615 and in the state's financial markets;

7616 (b) a critical shortage of seed and venture capital resources exists in the state, and that
 7617 shortage is impairing the growth of commerce in the state;

7618 (c) a need exists to increase the availability of venture equity capital for emerging,
 7619 expanding, and restructuring enterprises in Utah, including enterprises in the life sciences,
 7620 advanced manufacturing, and information technology;

7621 (d) increased venture equity capital investments in emerging, expanding, and
 7622 restructuring enterprises in Utah will:

7623 (i) create new jobs in the state; and
7624 (ii) help to diversify the state's economic base; and
7625 (e) a well-trained work force is critical for the maintenance and development of Utah's
7626 economy.

7627 (2) This part is enacted to:

7628 (a) mobilize private investment in a broad variety of venture capital partnerships in
7629 diversified industries and locales;

7630 (b) retain the private-sector culture of focusing on rate of return in the investing
7631 process;

7632 (c) secure the services of the best managers in the venture capital industry, regardless
7633 of location;

7634 (d) facilitate the organization of the Utah fund of funds to seek private investments and
7635 to serve as a catalyst in those investments by offering state incentives for private persons to
7636 make investments in the Utah fund of funds;

7637 (e) enhance the venture capital culture and infrastructure in the state so as to increase
7638 venture capital investment within the state and to promote venture capital investing within the
7639 state;

7640 (f) accomplish the purposes referred to in Subsections (2)(a) through (e) in a manner
7641 that would maximize the direct economic impact for the state; and

7642 (g) authorize the issuance and use of contingent tax credits to accomplish the purposes
7643 referred to in Subsections (2)(a) through (e) while protecting the interests of the state by
7644 limiting the manner in which contingent tax credits are issued, registered, transferred, claimed
7645 as an offset to the payment of state income tax, and redeemed.

7646 Section 196. Section **63N-6-103**, which is renumbered from Section 63M-1-1203 is
7647 renumbered and amended to read:

7648 ~~[63M-1-1203]~~. **63N-6-103. Definitions.**

7649 As used in this part:

7650 (1) "Board" means the Utah Capital Investment Board.

7651 (2) "Certificate" means a contract between the board and a designated investor under
7652 which a contingent tax credit is available and issued to the designated investor.

7653 (3) (a) Except as provided in Subsection (3)(b), "claimant" means a resident or

7654 nonresident person.

7655 (b) "Claimant" does not include an estate or trust.

7656 (4) "Commitment" means a written commitment by a designated purchaser to purchase
7657 from the board certificates presented to the board for redemption by a designated investor.

7658 Each commitment shall state the dollar amount of contingent tax credits that the designated
7659 purchaser has committed to purchase from the board.

7660 (5) "Contingent tax credit" means a contingent tax credit issued under this part that is
7661 available against tax liabilities imposed by Title 59, Chapter 7, Corporate Franchise and
7662 Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, if there are insufficient
7663 funds in the redemption reserve and the board has not exercised other options for redemption
7664 under Subsection [~~63M-1-1220~~] 63N-6-408(3)(b).

7665 (6) "Corporation" means the Utah Capital Investment Corporation created under
7666 Section [~~63M-1-1207~~] 63N-6-301.

7667 (7) "Designated investor" means:

7668 (a) a person who makes a private investment; or

7669 (b) a transferee of a certificate or contingent tax credit.

7670 (8) "Designated purchaser" means:

7671 (a) a person who enters into a written undertaking with the board to purchase a
7672 commitment; or

7673 (b) a transferee who assumes the obligations to make the purchase described in the
7674 commitment.

7675 (9) "Estate" means a nonresident estate or a resident estate.

7676 (10) "Person" means an individual, partnership, limited liability company, corporation,
7677 association, organization, business trust, estate, trust, or any other legal or commercial entity.

7678 (11) "Private investment" means:

7679 (a) an equity interest in the Utah fund of funds; or

7680 (b) a loan to the Utah fund of funds initiated before July 1, 2014, including a loan
7681 refinanced on or after July 1, 2014, that was originated before July 1, 2014.

7682 (12) "Redemption reserve" means the reserve established by the corporation to
7683 facilitate the cash redemption of certificates.

7684 (13) "Taxpayer" means a taxpayer:

- 7685 (a) of an investor; and
 7686 (b) if that taxpayer is a:
 7687 (i) claimant;
 7688 (ii) estate; or
 7689 (iii) trust.

7690 (14) "Trust" means a nonresident trust or a resident trust.

7691 (15) "Utah fund of funds" means a limited partnership or limited liability company
 7692 established under Section [~~63M-1-1213~~] 63N-6-401 in which a designated investor purchases
 7693 an equity interest.

7694 Section 197. Section **63N-6-201**, which is renumbered from Section 63M-1-1204 is
 7695 renumbered and amended to read:

7696 **Part 2. Utah Capital Investment Board**

7697 [~~63M-1-1204~~]. **63N-6-201. Utah Capital Investment Board.**

7698 (1) There is created within the office the Utah Capital Investment Board to exercise the
 7699 powers conferred by this part.

7700 (2) The purpose of the board is to mobilize venture equity capital for investment in a
 7701 manner that will result in a significant potential to create jobs and to diversify and stabilize the
 7702 economy of the state.

7703 (3) In the exercise of its powers and duties, the board is considered to be performing an
 7704 essential public purpose.

7705 Section 198. Section **63N-6-202**, which is renumbered from Section 63M-1-1205 is
 7706 renumbered and amended to read:

7707 [~~63M-1-1205~~]. **63N-6-202. Board members -- Meetings -- Expenses.**

7708 (1) (a) The board shall consist of the following five members:

- 7709 (i) the state treasurer;
 7710 (ii) the director or the director's designee; and
 7711 (iii) three members appointed by the governor and confirmed by the Senate.

7712 (b) The three members appointed by the governor shall serve four-year staggered terms
 7713 with the initial terms of the first three members to be four years for one member, three years for
 7714 one member, and two years for one member.

7715 (c) The governor shall appoint members of the board based on demonstrated expertise

7716 and competence in:

7717 (i) the supervision of investment managers;

7718 (ii) the fiduciary management of investment funds; or

7719 (iii) the management and administration of tax credit allocation programs.

7720 (2) When a vacancy occurs in the membership of the board for any reason, the vacancy
7721 shall be:

7722 (a) filled in the same manner as the appointment of the original member; and

7723 (b) for the unexpired term of the board member being replaced.

7724 (3) Appointed members of the board may not serve more than two full consecutive
7725 terms except when the governor determines that an additional term is in the best interest of the
7726 state.

7727 (4) (a) Four members of the board constitute a quorum for conducting business and
7728 exercising board power.

7729 (b) If a quorum is present, the action of a majority of members present is the action of
7730 the board.

7731 (5) A member may not receive compensation or benefits for the member's service, but
7732 may receive per diem and travel expenses in accordance with:

7733 (a) Section [63A-3-106](#);

7734 (b) Section [63A-3-107](#); and

7735 (c) rules made by the Division of Finance [~~according to~~] under Sections [63A-3-106](#) and
7736 [63A-3-107](#).

7737 (6) The board and its members are considered to be a governmental entity with all of
7738 the rights, privileges, and immunities of a governmental entity of the state, including all of the
7739 rights and benefits conferred under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

7740 (7) Meetings of the board, except to the extent necessary to protect the information
7741 identified in Subsection [~~63M-1-1224~~] [63N-6-412](#)(3), are subject to Title 52, Chapter 4, Open
7742 and Public Meetings Act.

7743 Section 199. Section [63N-6-203](#), which is renumbered from Section 63M-1-1206 is
7744 renumbered and amended to read:

7745 ~~[63M-1-1206]~~. [63N-6-203](#). **Board duties and powers.**

7746 (1) The board shall:

- 7747 (a) establish criteria and procedures for the allocation and issuance of contingent tax
7748 credits to designated investors by means of certificates issued by the board, provided that a
7749 contingent tax credit may not be issued unless the Utah fund of funds:
- 7750 (i) first agrees to treat the amount of the tax credit redeemed by the state as a loan from
7751 the state to the Utah fund of funds; and
- 7752 (ii) agrees to repay the loan upon terms and conditions established by the board;
- 7753 (b) establish criteria and procedures for assessing the likelihood of future certificate
7754 redemptions by designated investors, including:
- 7755 (i) criteria and procedures for evaluating the value of investments made by the Utah
7756 fund of funds; and
- 7757 (ii) the returns from the Utah fund of funds;
- 7758 (c) establish criteria and procedures for registering and redeeming contingent tax
7759 credits by designated investors holding certificates issued by the board;
- 7760 (d) establish a target rate of return or range of returns for the investment portfolio of
7761 the Utah fund of funds;
- 7762 (e) establish criteria and procedures governing commitments obtained by the board
7763 from designated purchasers including:
- 7764 (i) entering into commitments with designated purchasers; and
- 7765 (ii) drawing on commitments to redeem certificates from designated investors;
- 7766 (f) have power to:
- 7767 (i) expend funds;
- 7768 (ii) invest funds;
- 7769 (iii) issue debt and borrow funds;
- 7770 (iv) enter into contracts;
- 7771 (v) insure against loss; and
- 7772 (vi) perform any other act necessary to carry out its purpose; and
- 7773 (g) make, amend, and repeal rules for the conduct of its affairs, consistent with this part
7774 and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 7775 (2) (a) All rules made by the board under Subsection (1)(g) are subject to review by the
7776 Legislative Management Committee:
- 7777 (i) whenever made, modified, or repealed; and

7778 (ii) in each even-numbered year.

7779 (b) Subsection (2)(a) does not preclude the legislative Administrative Rules Review
7780 Committee from reviewing and taking appropriate action on any rule made, amended, or
7781 repealed by the board.

7782 (3) (a) The criteria and procedures established by the board for the allocation and
7783 issuance of contingent tax credits shall:

7784 (i) include the contingencies that must be met for a certificate and its related tax credits
7785 to be:

7786 (A) issued by the board;

7787 (B) transferred by a designated investor; and

7788 (C) redeemed by a designated investor in order to receive a contingent tax credit; and

7789 (ii) tie the contingencies for redemption of certificates to:

7790 (A) the targeted rates of return and scheduled redemptions of equity interests purchased
7791 by designated investors in the Utah fund of funds; and

7792 (B) the scheduled principal and interest payments payable to designated investors that
7793 have made loans initiated before July 1, 2014, including a loan refinanced on or after July 1,
7794 2014, that was originated before July 1, 2014, to the Utah fund of funds.

7795 (b) The board may not issue contingent tax credits under this part before July 1, 2004.

7796 (4) (a) The board may charge a placement fee to the Utah fund of funds for the
7797 issuance of a certificate and related contingent tax credit to a designated investor.

7798 (b) The fee shall:

7799 (i) be charged only to pay for reasonable and necessary costs of the board; and

7800 (ii) not exceed .5% of the private investment of the designated investor.

7801 (5) The board's criteria and procedures for redeeming certificates:

7802 (a) shall give priority to the redemption amount from the available funds in the
7803 redemption reserve; and

7804 (b) to the extent there are insufficient funds in the redemption reserve to redeem
7805 certificates, shall grant the board the option to redeem certificates:

7806 (i) by certifying a contingent tax credit to the designated investor; or

7807 (ii) by making demand on designated purchasers consistent with the requirements of
7808 Section [~~63M-1-1221~~] 63N-6-409.

7809 (6) (a) The board shall, in consultation with the corporation, publish on or before
7810 September 1 an annual report of the activities conducted by the Utah fund of funds, and submit
7811 the report to the governor; the Business, Economic Development, and Labor Appropriations
7812 Subcommittee; the Business and Labor Interim Committee; and the Retirement and
7813 Independent Entities Committee.

7814 (b) The annual report shall:

7815 (i) be designed to provide clear, accurate, and accessible information to the public, the
7816 governor, and the Legislature;

7817 (ii) include a copy of the audit of the Utah fund of funds described in Section
7818 [~~63M-1-1217~~] 63N-6-405;

7819 (iii) include a detailed balance sheet, revenue and expenses statement, and cash flow
7820 statement;

7821 (iv) include detailed information regarding new fund commitments made during the
7822 year, including the amount of money committed;

7823 (v) include the net annual rate of return of the Utah fund of funds for the reported year,
7824 and the net rate of return from the inception of the Utah fund of funds, after accounting for all
7825 expenses, including administrative and financing costs;

7826 (vi) include detailed information regarding:

7827 (A) realized gains from investments and any realized losses; and

7828 (B) unrealized gains and any unrealized losses based on the net present value of
7829 ongoing investments;

7830 (vii) include detailed information regarding all yearly expenditures, including:

7831 (A) administrative, operating, and financing costs;

7832 (B) aggregate compensation information separated by full- and part-time employees,
7833 including benefit and travel expenses; and

7834 (C) expenses related to the allocation manager;

7835 (viii) include detailed information regarding all funding sources for administrative,
7836 operations, and financing expenses, including expenses charged by or to the Utah fund of
7837 funds, including management and placement fees;

7838 (ix) review the progress of the investment fund allocation manager in implementing its
7839 investment plan and provide a general description of the investment plan;

7840 (x) for each individual fund that the Utah fund of funds is invested in that represents at
7841 least 5% of the net assets of the Utah fund of funds, include the name of the fund, the total
7842 value of the fund, the fair market value of the Utah fund of funds' investment in the fund, and
7843 the percentage of the total value of the fund held by the Utah fund of funds;

7844 (xi) include the number of companies in Utah where an investment was made from a
7845 fund that the Utah fund of funds is invested in, and provide an aggregate count of new full-time
7846 employees in the state added by all companies where investments were made by funds that the
7847 Utah fund of funds is invested in;

7848 (xii) include an aggregate total value for all funds the Utah fund of funds is invested in,
7849 and an aggregate total amount of money invested in the state by the funds the Utah fund of
7850 funds is invested in;

7851 (xiii) describe any redemption or transfer of a certificate issued under this part;

7852 (xiv) include actual and estimated potential appropriations the Legislature will be
7853 required to provide as a result of redeemed certificates or tax credits during the following five
7854 years;

7855 (xv) include an evaluation of the state's progress in accomplishing the purposes stated
7856 in Section [~~63M-1-1202~~] 63N-6-102; and

7857 (xvi) be directly accessible to the public via a link from the main page of the Utah fund
7858 of fund's website.

7859 (c) The annual report may not identify a specific designated investor who has redeemed
7860 or transferred a certificate.

7861 Section 200. Section **63N-6-301**, which is renumbered from Section 63M-1-1207 is
7862 renumbered and amended to read:

7863 **Part 3. Utah Capital Investment Corporation**

7864 [~~63M-1-1207~~]. **63N-6-301. Utah Capital Investment Corporation -- Powers**
7865 **and purposes.**

7866 (1) (a) There is created an independent quasi-public nonprofit corporation known as the
7867 Utah Capital Investment Corporation.

7868 (b) The corporation:

7869 (i) may exercise all powers conferred on independent corporations under Section
7870 63E-2-106;

- 7871 (ii) is subject to the prohibited participation provisions of Section 63E-2-107; and
7872 (iii) is subject to the other provisions of Title 63E, Chapter 2, Independent
7873 Corporations Act, except as otherwise provided in this part.
- 7874 (c) The corporation shall file with the Division of Corporations and Commercial Code:
7875 (i) articles of incorporation; and
7876 (ii) any amendment to its articles of incorporation.
- 7877 (d) In addition to the articles of incorporation, the corporation may adopt bylaws and
7878 operational policies that are consistent with this chapter.
- 7879 (e) Except as otherwise provided in this part, this part does not exempt the corporation
7880 from the requirements under state law which apply to other corporations organized under Title
7881 63E, Chapter 2, Independent Corporations Act.
- 7882 (2) The purposes of the corporation are to:
- 7883 (a) organize the Utah fund of funds;
7884 (b) select a venture capital investment fund allocation manager to make venture capital
7885 fund investments by the Utah fund of funds;
7886 (c) negotiate the terms of a contract with the venture capital investment fund allocation
7887 manager;
7888 (d) execute the contract with the selected venture capital investment fund manager on
7889 behalf of the Utah fund of funds;
7890 (e) receive funds paid by designated investors for the issuance of certificates by the
7891 board for private investment in the Utah fund of funds;
7892 (f) receive investment returns from the Utah fund of funds; and
7893 (g) establish the redemption reserve to be used by the corporation to redeem
7894 certificates.
- 7895 (3) The corporation may not:
- 7896 (a) exercise governmental functions;
7897 (b) have members;
7898 (c) pledge the credit or taxing power of the state or any political subdivision of the
7899 state; or
7900 (d) make its debts payable out of any money except money of the corporation.
- 7901 (4) The obligations of the corporation are not obligations of the state or any political

7902 subdivision of the state within the meaning of any constitutional or statutory debt limitations,
7903 but are obligations of the corporation payable solely and only from the corporation's funds.

7904 (5) The corporation may:

7905 (a) engage consultants and legal counsel;

7906 (b) expend funds;

7907 (c) invest funds;

7908 (d) issue debt and borrow funds;

7909 (e) enter into contracts;

7910 (f) insure against loss;

7911 (g) hire employees; and

7912 (h) perform any other act necessary to carry out its purposes.

7913 Section 201. Section **63N-6-302**, which is renumbered from Section 63M-1-1208 is
7914 renumbered and amended to read:

7915 ~~[63M-1-1208]~~. **63N-6-302. Incorporator -- Appointment committee.**

7916 (1) To facilitate the organization of the corporation, the executive director or the
7917 executive director's designee shall serve as the incorporator as provided in Section [16-6a-201](#).

7918 (2) To assist in the organization of the corporation, the Utah Board of Business and
7919 Economic Development shall appoint three individuals to serve on an appointment committee.

7920 (3) The appointment committee shall:

7921 (a) elect the initial board of directors of the corporation;

7922 (b) exercise due care to assure that persons elected to the initial board of directors have
7923 the requisite financial experience necessary in order to carry out the duties of the corporation as
7924 established in this part, including in areas related to:

7925 (i) venture capital investment;

7926 (ii) investment management; and

7927 (iii) supervision of investment managers and investment funds; and

7928 (c) terminate its existence upon the election of the initial board of directors of the
7929 corporation.

7930 (4) The office shall assist the incorporator and the appointment committee in any
7931 manner determined necessary and appropriate by the incorporator and appointment committee
7932 in order to administer this section.

7933 Section 202. Section **63N-6-303**, which is renumbered from Section 63M-1-1209 is
7934 renumbered and amended to read:

7935 ~~[63M-1-1209]~~. **63N-6-303. Board of directors.**

7936 (1) The initial board of directors of the corporation shall consist of five members.

7937 (2) The persons elected to the initial board of directors by the appointment committee
7938 shall include persons who have an expertise, as considered appropriate by the appointment
7939 committee, in the areas of:

7940 (a) the selection and supervision of investment managers;

7941 (b) fiduciary management of investment funds; and

7942 (c) other areas of expertise as considered appropriate by the appointment committee.

7943 (3) After the election of the initial board of directors, vacancies in the board of
7944 directors of the corporation shall be filled by election by the remaining directors of the
7945 corporation.

7946 (4) (a) Board members shall serve four-year terms, except that of the five initial
7947 members:

7948 (i) two shall serve four-year terms;

7949 (ii) two shall serve three-year terms; and

7950 (iii) one shall serve a two-year term.

7951 (b) Board members shall serve until their successors are elected and qualified and may
7952 serve successive terms.

7953 (c) A majority of the board members may remove a board member for cause.

7954 (d) (i) The board shall select a chair by majority vote.

7955 (ii) The chair's term is for one year.

7956 (5) Three members of the board are a quorum for the transaction of business.

7957 (6) Members of the board of directors:

7958 (a) are subject to any restrictions on conflicts of interest specified in the organizational
7959 documents of the corporation; and

7960 (b) may have no interest in any:

7961 (i) venture capital investment fund allocation manager selected by the corporation
7962 under this part; or

7963 (ii) investments made by the Utah fund of funds.

7964 (7) Directors of the corporation:

7965 (a) shall be compensated for direct expenses and mileage; and

7966 (b) may not receive a director's fee or salary for service as directors.

7967 Section 203. Section **63N-6-304**, which is renumbered from Section 63M-1-1210 is

7968 renumbered and amended to read:

7969 ~~[63M-1-1210]~~. **63N-6-304. Investment manager.**

7970 (1) After incorporation, the corporation shall conduct a national solicitation for
7971 investment plan proposals from qualified venture capital investment fund allocation managers
7972 for the raising and investing of capital by the Utah fund of funds in accordance with the
7973 requirements of this part.

7974 (2) Any proposed investment plan shall address the applicant's:

7975 (a) level of:

7976 (i) experience; and

7977 (ii) quality of management;

7978 (b) investment philosophy and process;

7979 (c) probability of success in fund-raising;

7980 (d) prior investment fund results; and

7981 (e) plan for achieving the purposes of this part.

7982 (3) The selected venture capital investment fund allocation manager shall have
7983 substantial, successful experience in the design, implementation, and management of seed and
7984 venture capital investment programs and in capital formation.

7985 (4) The corporation shall only select a venture capital investment fund allocation
7986 manager:

7987 (a) with demonstrated expertise in the management and fund allocation of investments
7988 in venture capital funds; and

7989 (b) considered best qualified to:

7990 (i) invest the capital of the Utah fund of funds; and

7991 (ii) generate the amount of capital required by this part.

7992 Section 204. Section **63N-6-305**, which is renumbered from Section 63M-1-1211 is
7993 renumbered and amended to read:

7994 ~~[63M-1-1211]~~. **63N-6-305. Management fee -- Additional financial**

7995 **assistance.**

7996 (1) The corporation may charge a management fee on assets under management in the
7997 Utah fund of funds.

7998 (2) The fee shall:

7999 (a) be in addition to any fee charged to the Utah fund of funds by the venture capital
8000 investment fund allocation manager selected by the corporation; and

8001 (b) be charged only to pay for reasonable and necessary costs of the corporation.

8002 (3) The corporation may apply for and, when qualified, receive financial assistance
8003 from the Industrial Assistance Account under [~~Title 63M;~~] Chapter [~~1~~] 3, Part [~~9~~] 1, Industrial
8004 Assistance Account, and under rules made by the Board of Business and Economic
8005 Development in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
8006 to help establish the program authorized under this part.

8007 Section 205. Section **63N-6-306**, which is renumbered from Section 63M-1-1212 is
8008 renumbered and amended to read:

8009 ~~[63M-1-1212].~~ **63N-6-306. Dissolution.**

8010 (1) Upon the dissolution of the Utah fund of funds, the corporation shall be liquidated
8011 and dissolved.

8012 (2) Upon dissolution or privatization of the corporation, any assets owned by the
8013 corporation shall be distributed to one or more Utah nonprofit tax exempt organizations to be
8014 designated by the Legislature for the purposes listed in Section [~~63M-1-1202~~] 63N-6-102 as
8015 provided in Title 63E, Chapter 1, Independent Entities Act.

8016 Section 206. Section **63N-6-401**, which is renumbered from Section 63M-1-1213 is
8017 renumbered and amended to read:

8018 **Part 4. Utah Fund of Funds**

8019 ~~[63M-1-1213].~~ **63N-6-401. Organization of Utah fund of funds.**

8020 (1) The corporation shall organize the Utah fund of funds.

8021 (2) The Utah fund of funds shall make investments in private seed and venture capital
8022 partnerships or entities in a manner and for the following purposes:

8023 (a) to encourage the availability of a wide variety of venture capital in the state;

8024 (b) to strengthen the economy of the state;

8025 (c) to help business in the state gain access to sources of capital;

8026 (d) to help build a significant, permanent source of capital available to serve the needs
8027 of businesses in the state; and

8028 (e) to accomplish all these benefits in a way that minimizes the use of contingent tax
8029 credits.

8030 (3) The Utah fund of funds shall be organized:

8031 (a) as a limited partnership or limited liability company under Utah law having the
8032 corporation as the general partner or manager;

8033 (b) to provide for equity interests for designated investors which provide for a
8034 designated scheduled rate of return and a scheduled redemption in accordance with rules made
8035 by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

8036 (c) to provide for loans by or the issuance of debt obligations to designated investors
8037 which provide for designated payments of principal, interest, or interest equivalent in
8038 accordance with rules made by the board pursuant to Title 63G, Chapter 3, Utah
8039 Administrative Rulemaking Act.

8040 (4) Public money may not be invested in the Utah fund of funds.

8041 Section 207. Section **63N-6-402**, which is renumbered from Section 63M-1-1214 is
8042 renumbered and amended to read:

8043 **~~[63M-1-1214]~~. 63N-6-402. Compensation from the Utah fund of funds to**
8044 **the corporation -- Redemption reserve.**

8045 (1) The corporation shall be compensated for its involvement in the Utah fund of funds
8046 through the payment of the management fee described in Section ~~[63M-1-1211]~~ 63N-6-305.

8047 (2) Before any returns may be reinvested in the Utah fund of funds:

8048 (a) any returns shall be paid to designated investors, including the repayment by the
8049 Utah fund of funds of any outstanding loans;

8050 (b) any returns in excess of those payable to designated investors shall be deposited in
8051 the redemption reserve and held by the corporation as a first priority reserve for the redemption
8052 of certificates;

8053 (c) any returns received by the corporation from investment of amounts held in the
8054 redemption reserve shall be added to the redemption reserve until it has reached a total of
8055 \$250,000,000; and

8056 (d) if at the end of a calendar year the redemption reserve exceeds the \$250,000,000

8057 limitation referred to in Subsection (2)(c), the corporation may reinvest the excess in the Utah
8058 fund of funds.

8059 (3) Funds held by the corporation in the redemption reserve shall be invested in
8060 accordance with Title 51, Chapter 7, State Money Management Act.

8061 Section 208. Section **63N-6-403**, which is renumbered from Section 63M-1-1215 is
8062 renumbered and amended to read:

8063 ~~[63M-1-1215]~~. **63N-6-403. Investments by Utah fund of funds.**

8064 (1) The Utah fund of funds shall invest funds:

8065 (a) principally in high-quality venture capital funds managed by investment managers
8066 who have:

8067 (i) made a commitment to equity investments in businesses located within the state;

8068 and

8069 (ii) have committed to maintain a physical presence within the state;

8070 (b) in private venture capital funds and not in direct investments in individual

8071 businesses; and

8072 (c) in venture capital funds with experienced managers or management teams with
8073 demonstrated expertise and a successful history in the investment of venture capital funds.

8074 (2) (a) The Utah fund of funds shall give priority to investments in private seed and
8075 venture capital partnerships and entities that have demonstrated a commitment to the state as
8076 evidenced by:

8077 (i) the investments they have made in Utah-based entities;

8078 (ii) the correspondent relationships they have established with Utah-based venture
8079 capital funds; or

8080 (iii) the commitment they have made to expand the reach of expertise within the state
8081 by adding additional investment areas of expertise.

8082 (b) The manager of the Utah fund of funds may waive the priorities under Subsection
8083 (2)(a) only if necessary to achieve the targeted investment returns required to attract designated
8084 investors.

8085 (3) The Utah fund of funds may invest funds in a newly created venture capital fund
8086 only if the managers or management team of the fund have the experience, expertise, and a
8087 successful history in the investment of venture capital funds as described in Subsection (1)(c).

8088 (4) (a) An investment or investments by the Utah fund of funds in any venture capital
8089 fund may comprise no more than 20% of the total committed capital in the venture capital
8090 fund.

8091 (b) (i) No more than 50% of the funds invested by the Utah fund of funds may be made
8092 with venture capital entities with offices in the state established prior to July 1, 2002.

8093 (ii) The restriction under Subsection (4)(b)(i) shall remain in place until three
8094 additional venture capital entities open new offices in the state.

8095 Section 209. Section **63N-6-404**, which is renumbered from Section 63M-1-1216 is
8096 renumbered and amended to read:

8097 ~~[63M-1-1216]~~. **63N-6-404. Powers of Utah fund of funds.**

8098 (1) The Utah fund of funds may:

8099 (a) engage consultants and legal counsel;

8100 (b) expend funds;

8101 (c) invest funds;

8102 (d) issue debt and borrow funds;

8103 (e) enter into contracts;

8104 (f) insure against loss;

8105 (g) hire employees;

8106 (h) issue equity interests to designated investors that have purchased equity interest
8107 certificates from the board; and

8108 (i) perform any other act necessary to carry out its purposes.

8109 (2) (a) The Utah fund of funds shall engage a venture capital investment fund
8110 allocation manager.

8111 (b) The compensation paid to the fund manager shall be in addition to the management
8112 fee paid to the corporation under Section ~~[63M-1-1211]~~ 63N-6-305.

8113 (3) The Utah fund of funds may:

8114 (a) open and manage bank and short-term investment accounts as considered necessary
8115 by the venture capital investment fund allocation manager; and

8116 (b) expend money to secure investment ratings for investments by designated investors
8117 in the Utah fund of funds.

8118 Section 210. Section **63N-6-405**, which is renumbered from Section 63M-1-1217 is

8119 renumbered and amended to read:

8120 ~~[63M-1-1217]~~. 63N-6-405. Annual audits.

8121 (1) Each calendar year, an audit of the activities of the Utah fund of funds shall be
8122 made as described in this section.

8123 (2) (a) The audit shall be conducted by:

8124 (i) the state auditor; or

8125 (ii) an independent auditor engaged by the state auditor.

8126 (b) An independent auditor used under Subsection (2)(a)(ii) must have no business,
8127 contractual, or other connection to:

8128 (i) the corporation; or

8129 (ii) the Utah fund of funds.

8130 (3) The corporation shall pay the costs associated with the annual audit.

8131 (4) The annual audit report shall:

8132 (a) be delivered to:

8133 (i) the corporation; and

8134 (ii) the board;

8135 (b) include a valuation of the assets owned by the Utah fund of funds as of the end of
8136 the reporting year;

8137 (c) include an opinion regarding the accuracy of the information provided in the annual
8138 report described in Subsection ~~[63M-1-1206]~~ 63N-6-203(6); and

8139 (d) be completed on or before September 1 for the previous calendar year so that it may
8140 be included in the annual report described in Section ~~[63M-1-1206]~~ 63N-6-203.

8141 Section 211. Section **63N-6-406**, which is renumbered from Section 63M-1-1218 is
8142 renumbered and amended to read:

8143 ~~[63M-1-1218]~~. 63N-6-406. Certificates and contingent tax credits.

8144 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
8145 board, in consultation with the State Tax Commission, shall make rules governing the form,
8146 issuance, transfer, and redemption of certificates.

8147 (2) The board's issuance of certificates and related contingent tax credits to designated
8148 investors is subject to the following:

8149 (a) the aggregate outstanding certificates may not exceed a total of:

8150 (i) \$150,000,000 of contingent tax credits used as collateral or a guarantee on loans for
8151 the debt-based financing of investments in the Utah fund of funds, including a loan refinanced
8152 using debt- or equity-based financing as described in Subsection (2)(e); and

8153 (ii) \$75,000,000 used as a guarantee on equity investments in the Utah fund of funds;

8154 (b) the board shall issue a certificate contemporaneously with an investment in the
8155 Utah fund of funds by a designated investor;

8156 (c) the board shall issue contingent tax credits in a manner that not more than
8157 \$20,000,000 of contingent tax credits for each \$100,000,000 increment of contingent tax
8158 credits may be redeemable in a fiscal year;

8159 (d) the credits are certifiable if there are insufficient funds in the redemption reserve to
8160 make a cash redemption and the board does not exercise its other options under Subsection
8161 ~~[63M-1-1220]~~ 63N-6-408(3)(b);

8162 (e) the board may not issue additional certificates as collateral or a guarantee on a loan
8163 for the debt-based financing of investments in the Utah fund of funds that is initiated after July
8164 1, 2014, except for a loan refinanced using debt- or equity-based financing on or after July 1,
8165 2014, that was originated before July 1, 2014;

8166 (f) after July 1, 2014, and on or before December 31, 2017, the board may issue
8167 certificates that represent a guarantee of no more than 100% of the principal of each equity
8168 investment in the Utah fund of funds; and

8169 (g) the board may not issue certificates after December 31, 2017.

8170 (3) In determining the maximum limits in Subsections (2)(a)(i) and (ii) and the
8171 \$20,000,000 limitation for each \$100,000,000 increment of contingent tax credits in Subsection
8172 (2)(c):

8173 (a) the board shall use the cumulative amount of scheduled aggregate returns on
8174 certificates issued by the board to designated investors;

8175 (b) certificates and related contingent tax credits that have expired may not be
8176 included; and

8177 (c) certificates and related contingent tax credits that have been redeemed shall be
8178 included only to the extent of tax credits actually allowed.

8179 (4) Contingent tax credits are subject to the following:

8180 (a) a contingent tax credit may not be redeemed except by a designated investor in

8181 accordance with the terms of a certificate from the board;

8182 (b) a contingent tax credit may not be redeemed prior to the time the Utah fund of
8183 funds receives full payment from the designated investor for the certificate;

8184 (c) a contingent tax credit shall be claimed for a tax year that begins during the
8185 calendar year maturity date stated on the certificate;

8186 (d) an investor who redeems a certificate and the related contingent tax credit shall
8187 allocate the amount of the contingent tax credit to the taxpayers of the investor based on the
8188 taxpayer's pro rata share of the investor's earnings; and

8189 (e) a contingent tax credit shall be claimed as a refundable credit.

8190 (5) In calculating the amount of a contingent tax credit:

8191 (a) the board shall certify a contingent tax credit only if the actual return, or payment of
8192 principal and interest for a loan initiated before July 1, 2014, including a loan refinanced on or
8193 after July 1, 2014, that was originated before July 1, 2014, to the designated investor is less
8194 than that targeted at the issuance of the certificate;

8195 (b) the amount of the contingent tax credit for a designated investor with an equity
8196 interest may not exceed the difference between the actual principal investment of the
8197 designated investor in the Utah fund of funds and the aggregate actual return received by the
8198 designated investor and any predecessor in interest of the initial equity investment and interest
8199 on the initial equity investment;

8200 (c) the rates, whether fixed rates or variable rates, shall be determined by a formula
8201 stipulated in the certificate; and

8202 (d) the amount of the contingent tax credit for a designated investor with an
8203 outstanding loan to the Utah fund of funds initiated before July 1, 2014, including a loan
8204 refinanced on or after July 1, 2014, that was originated before July 1, 2014, shall be equal to
8205 the amount of any principal, interest, or interest equivalent unpaid at the redemption of the loan
8206 or other obligation, as stipulated in the certificate.

8207 (6) The board shall clearly indicate on the certificate:

8208 (a) the targeted return on the invested capital, if the private investment is an equity
8209 interest;

8210 (b) the payment schedule of principal, interest, or interest equivalent, if the private
8211 investment is a loan initiated before July 1, 2014, including a loan refinanced on or after July 1,

8212 2014, that was originated before July 1, 2014;

8213 (c) the amount of the initial private investment;

8214 (d) the calculation formula for determining the scheduled aggregate return on the initial
8215 equity investment, if applicable; and

8216 (e) the calculation formula for determining the amount of the contingent tax credit that
8217 may be claimed.

8218 (7) Once money is invested by a designated investor, a certificate:

8219 (a) is binding on the board; and

8220 (b) may not be modified, terminated, or rescinded.

8221 (8) Funds invested by a designated investor for a certificate shall be paid to the
8222 corporation for placement in the Utah fund of funds.

8223 (9) The State Tax Commission may, in accordance with Title 63G, Chapter 3, Utah
8224 Administrative Rulemaking Act, and in consultation with the board, make rules to help
8225 implement this section.

8226 Section 212. Section **63N-6-407**, which is renumbered from Section 63M-1-1219 is
8227 renumbered and amended to read:

8228 ~~[63M-1-1219]~~. **63N-6-407**. **Transfer and registration of certificates.**

8229 (1) A certificate and the related contingent tax credit may be transferred by the
8230 designated investor.

8231 (2) The board, in conjunction with the State Tax Commission, shall develop:

8232 (a) a system for registration of any certificate and related contingent tax credit issued or
8233 transferred under this part; and

8234 (b) a system that permits verification that:

8235 (i) any contingent tax credit claimed is valid; and

8236 (ii) any transfers of the certificate and related contingent tax credit are made in
8237 accordance with the requirements of this part.

8238 (3) A certificate or contingent tax credit issued or transferred under this part may not be
8239 considered a security under Title 61, Chapter 1, Utah Uniform Securities Act.

8240 Section 213. Section **63N-6-408**, which is renumbered from Section 63M-1-1220 is
8241 renumbered and amended to read:

8242 ~~[63M-1-1220]~~. **63N-6-408**. **Redemption of certificates.**

8243 (1) If a designated investor elects to redeem a certificate, the certificate shall be
8244 presented to the board for redemption no later than June 30 of the calendar year maturity date
8245 stated on the certificate.

8246 (2) Upon presentment to the board, it shall determine and certify the amount of the
8247 contingent tax credit that may be claimed by the designated investor based on:

8248 (a) the limitations in Section [~~63M-1-1218~~] 63N-6-406; and

8249 (b) rules made by the board in accordance with Title 63G, Chapter 3, Utah
8250 Administrative Rulemaking Act.

8251 (3) (a) If there are sufficient funds in the redemption reserve, the board shall direct the
8252 corporation to make a cash redemption of the certificate.

8253 (b) If there are insufficient funds in the redemption reserve, the board may elect to
8254 redeem the certificate:

8255 (i) by certifying a contingent tax credit to the designated investor; or

8256 (ii) by making demand on designated purchasers to purchase certificates in accordance
8257 with Section [~~63M-1-1221~~] 63N-6-409.

8258 (4) The board shall certify to the State Tax Commission the contingent tax credit which
8259 can be claimed by the designated investor with respect to the redemption of the certificate.

8260 (5) The board shall cancel all redeemed certificates.

8261 Section 214. Section **63N-6-409**, which is renumbered from Section 63M-1-1221 is
8262 renumbered and amended to read:

8263 ~~[63M-1-1221]~~. **63N-6-409**. **Use of commitments to redeem certificates.**

8264 (1) The board may elect to draw on a commitment to redeem a certificate from a
8265 designated investor.

8266 (2) If the board makes an election under Subsection (1), it shall:

8267 (a) inform the designated purchaser of the amount of the contingent tax credit that must
8268 be purchased from the board;

8269 (b) specify the date on which the purchase must be consummated; and

8270 (c) use the funds delivered to the board by the designated purchaser to redeem the
8271 certificate from the designated investor.

8272 (3) The board has discretion in determining which commitment or commitments and
8273 what portion of those commitments to use to redeem certificates.

8274 (4) The contingent tax credits acquired by a designated purchaser under this section are
8275 subject to Section [~~63M-1-1218~~] 63N-6-406.

8276 Section 215. Section **63N-6-410**, which is renumbered from Section 63M-1-1222 is
8277 renumbered and amended to read:

8278 ~~[63M-1-1222]~~. **63N-6-410. Powers and effectiveness.**

8279 (1) This [~~part~~] chapter may not be construed as a restriction or limitation upon any
8280 power which the board might otherwise have under any other law of this state and the
8281 provisions of this [~~part~~] chapter are cumulative to those powers.

8282 (2) This [~~part~~] chapter shall be construed to provide a complete, additional, and
8283 alternative method for performing the duties authorized and shall be regarded as supplemental
8284 and additional powers to those conferred by any other laws.

8285 (3) The provisions of any contract entered into by the board or the Utah fund of funds
8286 may not be compromised, diminished, invalidated, or affected by the:

8287 (a) level, timing, or degree of success of the Utah fund of funds or the investment funds
8288 in which the Utah fund of funds invests; or

8289 (b) extent to which the investment funds are:

8290 (i) invested in Utah venture capital projects; or

8291 (ii) successful in accomplishing any economic development objectives.

8292 Section 216. Section **63N-6-411**, which is renumbered from Section 63M-1-1223 is
8293 renumbered and amended to read:

8294 ~~[63M-1-1223]~~. **63N-6-411. Permissible investments.**

8295 Investments by designated investors in the Utah fund of funds are permissible
8296 investments under applicable laws of the state for:

8297 (1) state-chartered banks;

8298 (2) state-chartered credit unions;

8299 (3) state-chartered industrial banks; and

8300 (4) domestic insurance companies.

8301 Section 217. Section **63N-6-412**, which is renumbered from Section 63M-1-1224 is
8302 renumbered and amended to read:

8303 ~~[63M-1-1224]~~. **63N-6-412. Exemption from certain statutes.**

8304 (1) Except as otherwise provided in this part, the corporation is exempt from statutes

8305 governing state agencies, as provided in Section [63E-2-109](#).

8306 (2) The corporation is exempt from:

8307 (a) Title 52, Chapter 4, Open and Public Meetings Act; and

8308 (b) Title 63G, Chapter 2, Government Records Access and Management Act.

8309 (3) The board is exempt from the requirement to report fund performance of venture
8310 firms and private equity firms set forth in Title 63G, Chapter 2, Government Records Access
8311 and Management Act.

8312 Section 218. Section **63N-7-101**, which is renumbered from Section 63M-1-1401 is
8313 renumbered and amended to read:

8314 **CHAPTER 7. TOURISM DEVELOPMENT**

8315 **Part 1. Board of Tourism Development**

8316 ~~[63M-1-1401]~~. **63N-7-101. Board of Tourism Development.**

8317 (1) This chapter is known as "Tourism Development."

8318 ~~[(+)]~~ (2) There is created within the office the Board of Tourism Development.

8319 ~~[(2)]~~ (3) The board shall advise the office on the office's planning, policies, and
8320 strategies and on trends and opportunities for tourism development that may exist in the
8321 various areas of the state.

8322 ~~[(3)]~~ (4) The board shall perform other duties as required by Section [~~63M-1-1403~~]
8323 ~~63N-7-103~~.

8324 Section 219. Section **63N-7-102**, which is renumbered from Section 63M-1-1402 is
8325 renumbered and amended to read:

8326 ~~[63M-1-1402]~~. **63N-7-102. Members -- Meetings -- Expenses.**

8327 (1) (a) The board shall consist of 13 members appointed by the governor to four-year
8328 terms ~~[of office]~~ with the consent of the Senate.

8329 (b) Notwithstanding the requirements of Subsection (1)(a), the governor shall, at the
8330 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
8331 board members are staggered so that approximately half of the board is appointed every two
8332 years.

8333 (2) The members may not serve more than two full consecutive terms unless the
8334 governor determines that an additional term is in the best interest of the state.

8335 (3) Not more than seven members of the board may be of the same political party.

- 8336 (4) (a) The members shall be representative of:
- 8337 (i) all areas of the state with six being appointed from separate geographical areas as
- 8338 provided in Subsection (4)(b); and
- 8339 (ii) a diverse mix of business ownership or executive management of tourism related
- 8340 industries.
- 8341 (b) The geographical representatives shall be appointed as follows:
- 8342 (i) one member from Salt Lake, Tooele, or Morgan County;
- 8343 (ii) one member from Davis, Weber, Box Elder, Cache, or Rich County;
- 8344 (iii) one member from Utah, Summit, Juab, or Wasatch County;
- 8345 (iv) one member from Carbon, Emery, Grand, Duchesne, Daggett, or Uintah County;
- 8346 (v) one member from San Juan, Piute, Wayne, Garfield, or Kane County; and
- 8347 (vi) one member from Washington, Iron, Beaver, Sanpete, Sevier, or Millard County.
- 8348 (c) The tourism industry representatives of ownership or executive management shall
- 8349 be appointed as follows:
- 8350 (i) one member from ownership or executive management of the lodging industry, as
- 8351 recommended by the lodging industry for the governor's consideration;
- 8352 (ii) one member from ownership or executive management of the restaurant industry,
- 8353 as recommended by the restaurant industry for the governor's consideration;
- 8354 (iii) one member from ownership or executive management of the ski industry, as
- 8355 recommended by the ski industry for the governor's consideration; and
- 8356 (iv) one member from ownership or executive management of the motor vehicle rental
- 8357 industry, as recommended by the motor vehicle rental industry for the governor's consideration.
- 8358 (d) One member shall be appointed at large from ownership or executive management
- 8359 of business, finance, economic policy, or the academic media marketing community.
- 8360 (e) One member shall be appointed from the Utah Tourism Industry Coalition as
- 8361 recommended by the coalition for the governor's consideration.
- 8362 (f) One member shall be appointed to represent the state's counties as recommended by
- 8363 the Utah Association of Counties for the governor's consideration.
- 8364 (g) (i) The governor may choose to disregard a recommendation made for a board
- 8365 member under Subsections (4)(c), (e), and (f).
- 8366 (ii) The governor shall request additional recommendations if recommendations are

8367 disregarded under Subsection (4)(g)(i).

8368 (5) When a vacancy occurs in the membership for any reason, the replacement shall be
8369 appointed for the unexpired term from the same geographic area or industry representation as
8370 the member whose office was vacated.

8371 (6) Seven members of the board constitute a quorum for conducting board business and
8372 exercising board powers.

8373 (7) The governor shall select one of the board members as chair and one of the board
8374 members as vice chair, each for a four-year term as recommended by the board for the
8375 governor's consideration.

8376 (8) A member may not receive compensation or benefits for the member's service, but
8377 may receive per diem and travel expenses in accordance with:

8378 (a) Section 63A-3-106;

8379 (b) Section 63A-3-107; and

8380 (c) rules made by the Division of Finance [~~pursuant to~~] under Sections 63A-3-106 and
8381 63A-3-107.

8382 (9) The board shall meet monthly or as often as the board determines to be necessary at
8383 various locations throughout the state.

8384 (10) Members who may have a potential conflict of interest in consideration of fund
8385 allocation decisions shall identify the potential conflict prior to voting on the issue.

8386 (11) (a) The board shall determine attendance requirements for maintaining a
8387 designated board seat.

8388 (b) If a board member fails to attend according to the requirements established
8389 pursuant to Subsection (11)(a), the board member shall be replaced upon written certification
8390 from the board chair or vice chair to the governor.

8391 (c) A replacement appointed by the governor under Subsection (11)(b) shall serve for
8392 the remainder of the board member's unexpired term.

8393 (12) The board's office shall be in Salt Lake City.

8394 Section 220. Section **63N-7-103**, which is renumbered from Section 63M-1-1403 is
8395 renumbered and amended to read:

8396 ~~[63M-1-1403]~~. **63N-7-103. Board duties.**

8397 (1) The board shall:

8398 (a) have authority to approve a tourism program of out-of-state advertising, marketing,
8399 and branding, taking into account the long-term strategic plan, economic trends, and
8400 opportunities for tourism development on a statewide basis, as a condition of the distribution of
8401 funds to the office from the Tourism Marketing Performance Account under Section
8402 [~~63M-1-1406~~] 63N-7-301;

8403 (b) have authority to approve a tourism program of advertising, marketing, and
8404 branding of the state, taking into account the long-term strategic plan, economic trends, and
8405 opportunities for tourism development on a statewide basis, as a condition of the distribution of
8406 money to the office from the Stay Another Day and Bounce Back Account, created in Section
8407 [~~63M-1-3411~~] 63N-2-511;

8408 (c) review the office programs for coordination and integration of advertising and
8409 branding themes to be used whenever possible in all office programs, including recreational,
8410 scenic, historic, and tourist attractions of the state at large;

8411 (d) encourage and assist in coordination of the activities of persons, firms, associations,
8412 corporations, civic groups, and governmental agencies engaged in publicizing, developing, and
8413 promoting the scenic attractions and tourist advantages of the state; and

8414 (e) (i) advise the office in establishing a Cooperative Program from the money in the
8415 Tourism Marketing Performance Account under Section [~~63M-1-1406~~] 63N-7-301 for use by
8416 cities, counties, nonprofit destination marketing organizations, and similar public entities for
8417 the purpose of supplementing money committed by these entities for advertising and promotion
8418 to and for out-of-state residents to attract them to visit sites advertised by and attend events
8419 sponsored by these entities;

8420 (ii) the Cooperative Program shall be allocated 20% of the revenues appropriated to the
8421 office from the Tourism Marketing Performance Account;

8422 (iii) the office, with approval from the board, shall establish eligibility, advertising, and
8423 timing requirements and criteria and provide for an approval process for applications;

8424 (iv) an application from an eligible applicant to receive money from the Cooperative
8425 Program must be submitted on or before the appropriate date established by the office; and

8426 (v) Cooperative Program money not used in each fiscal year shall be returned to the
8427 Tourism Marketing Performance Account.

8428 (2) The board may:

8429 (a) solicit and accept contributions of money, services, and facilities from any other
 8430 sources, public or private and shall use these funds for promoting the general interest of the
 8431 state in tourism; and

8432 (b) establish subcommittees for the purpose of assisting the board in an advisory role
 8433 only.

8434 (3) The board may not, except as otherwise provided in Subsection (1)(a), make policy
 8435 related to the management or operation of the office.

8436 Section 221. Section **63N-7-201**, which is renumbered from Section 63M-1-1404 is
 8437 renumbered and amended to read:

8438 **Part 2. Powers and Duties of Office**

8439 ~~[63M-1-1404]~~. **63N-7-201. Powers and duties of office related to tourism**
 8440 **development plan -- Annual report and survey.**

8441 (1) The office shall:

8442 (a) be the tourism development authority of the state;

8443 (b) develop a tourism advertising, marketing, and branding program for the state;

8444 (c) receive approval from the Board of Tourism Development under Subsection
 8445 ~~[63M-1-1403]~~ 63N-7-103(1)(a) before implementing the out-of-state advertising, marketing,
 8446 and branding campaign;

8447 (d) develop a plan to increase the economic contribution by tourists visiting the state;

8448 (e) plan and conduct a program of information, advertising, and publicity relating to the
 8449 recreational, scenic, historic, and tourist advantages and attractions of the state at large; and

8450 (f) encourage and assist in the coordination of the activities of persons, firms,
 8451 associations, corporations, travel regions, counties, and governmental agencies engaged in
 8452 publicizing, developing, and promoting the scenic attractions and tourist advantages of the
 8453 state.

8454 (2) Any plan provided for under Subsection (1) shall address, but not be limited to,
 8455 enhancing the state's image, promoting Utah as a year-round destination, encouraging
 8456 expenditures by visitors to the state, and expanding the markets where the state is promoted.

8457 (3) The office shall:

8458 (a) conduct a regular and ongoing research program to identify statewide economic
 8459 trends and conditions in the tourism sector of the economy; and

8460 (b) include in the annual written report described in Section [~~63M-1-206~~ 63N-1-301], a
8461 report on the economic efficiency of the advertising and branding campaigns conducted under
8462 this part.

8463 Section 222. Section **63N-7-202**, which is renumbered from Section 63M-1-1405 is
8464 renumbered and amended to read:

8465 ~~[63M-1-1405]~~. **63N-7-202. Agreements with other governmental entities.**

8466 The office may enter into agreements with state or federal agencies to accept services,
8467 quarters, or facilities as a contribution in carrying out the duties and functions of the office.

8468 Section 223. Section **63N-7-301**, which is renumbered from Section 63M-1-1406 is
8469 renumbered and amended to read:

8470 **Part 3. Tourism Marketing Performance Account**

8471 ~~[63M-1-1406]~~. **63N-7-301. Tourism Marketing Performance Account.**

8472 (1) There is created within the General Fund a restricted account known as the Tourism
8473 Marketing Performance Account.

8474 (2) The account shall be administered by the office for the purposes listed in
8475 Subsection (5).

8476 (3) (a) The account shall earn interest.

8477 (b) All interest earned on account money shall be deposited into the account.

8478 (4) The account shall be funded by appropriations made to the account by the
8479 Legislature in accordance with this section.

8480 (5) The director shall use account money appropriated to the office to pay for the
8481 statewide advertising, marketing, and branding campaign for promotion of the state as
8482 conducted by the office.

8483 (6) (a) For a fiscal year beginning on or after July 1, 2007, the office shall annually
8484 allocate 10% of the account money appropriated to the office to a sports organization for
8485 advertising, marketing, branding, and promoting Utah in attracting sporting events into the
8486 state.

8487 (b) The sports organization shall:

8488 (i) provide an annual written report to the office that gives a complete accounting of
8489 the use of money the sports organization receives under this Subsection (6); and

8490 (ii) partner with the office to promote the state and to encourage economic growth in

8491 the state.

8492 (c) For purposes of this Subsection (6), "sports organization" means an organization
8493 that is:

8494 (i) exempt from federal income taxation in accordance with Section 501(c)(3), Internal
8495 Revenue Code; and

8496 (ii) created to foster national and international sports competitions in the state,
8497 including competitions related to Olympic sports, and to promote and encourage sports tourism
8498 throughout the state, including advertising, marketing, branding, and promoting Utah for the
8499 purpose of attracting sporting events into the state.

8500 (7) Money deposited into the account shall consist of a legislative appropriation from
8501 the cumulative sales and use tax revenue increases identified in Subsection (8), plus any
8502 appropriation made by the Legislature.

8503 (8) (a) In fiscal years 2006 through 2019, a portion of the state sales and use tax
8504 revenues determined under this Subsection (8) shall be certified as a set-aside for the account
8505 by the State Tax Commission and reported to the Office of Legislative Fiscal Analyst.

8506 (b) The State Tax Commission shall determine the set-aside under this Subsection (8)
8507 in each fiscal year by applying the following formula: if the increase in the state sales and use
8508 tax revenues derived from the retail sales of tourist-oriented goods and services, in the fiscal
8509 year two years prior to the fiscal year in which the set-aside is to be made for the account, is at
8510 least 3% over the state sales and use tax revenues derived from the retail sales of
8511 tourist-oriented goods and services generated in the fiscal year three years prior to the fiscal
8512 year in which the set-aside is to be made, an amount equal to 1/2 of the state sales and use tax
8513 revenues generated above the 3% increase shall be calculated by the commission and set aside
8514 by the state treasurer for appropriation to the account.

8515 (c) The total money appropriated to the account in any fiscal year under Subsections
8516 (8)(a) and (b) may not exceed the amount in the account under this section in the fiscal year
8517 immediately preceding the current fiscal year by more than \$3,000,000.

8518 (d) As used in this Subsection (8), "sales of tourist-oriented goods and services" are
8519 those sales by businesses registered with the State Tax Commission under the following codes
8520 of the 1997 North American Industry Classification System of the federal Executive Office of
8521 the President, Office of Management and Budget:

- 8522 (i) NAICS Code 453 Miscellaneous Store Retailers;
- 8523 (ii) NAICS Code 481 Passenger Air Transportation;
- 8524 (iii) NAICS Code 487 Scenic and Sightseeing Transportation;
- 8525 (iv) NAICS Code 711 Performing Arts, Spectator Sports and Related Industries;
- 8526 (v) NAICS Code 712 Museums, Historical Sites and Similar Institutions;
- 8527 (vi) NAICS Code 713 Amusement, Gambling and Recreation Industries;
- 8528 (vii) NAICS Code 721 Accommodations;
- 8529 (viii) NAICS Code 722 Food Services and Drinking Places;
- 8530 (ix) NAICS Code 4483 Jewelry, Luggage, and Leather Goods Stores;
- 8531 (x) NAICS Code 4853 Taxi and Limousine Service;
- 8532 (xi) NAICS Code 4855 Charter Bus;
- 8533 (xii) NAICS Code 5615 Travel Arrangement and Reservation Services;
- 8534 (xiii) NAICS Code 44611 Pharmacies and Drug Stores;
- 8535 (xiv) NAICS Code 45111 Sporting Goods Stores;
- 8536 (xv) NAICS Code 45112 Hobby Toy and Game Stores;
- 8537 (xvi) NAICS Code 45121 Book Stores and News Dealers;
- 8538 (xvii) NAICS Code 445120 Convenience Stores without Gas Pumps;
- 8539 (xviii) NAICS Code 447110 Gasoline Stations with Convenience Stores;
- 8540 (xix) NAICS Code 447190 Other Gasoline Stations;
- 8541 (xx) NAICS Code 532111 Passenger Car Rental; and
- 8542 (xxi) NAICS Code 532292 Recreational Goods Rental.

8543 (e) The Division of Finance shall for each fiscal year transfer the first \$6,000,000 of
 8544 ongoing money in the account to the General Fund.

8545 ~~[(9) By October 1, 2014, the office shall provide a written report to the Economic~~
 8546 ~~Development and Workforce Services Interim Committee containing:]~~

8547 ~~[(a) a recommendation, based on economic modeling, for an updated definition of~~
 8548 ~~"sales of tourist-oriented goods and services" to replace the definition in Subsection (8)(d);~~
 8549 ~~and]~~

8550 ~~[(b) information describing the extent to which the state benefits annually from~~
 8551 ~~activities funded by the Tourism Marketing Performance Account.]~~

8552 Section 224. Section **63N-8-101**, which is renumbered from Section 63M-1-1801 is

8553 renumbered and amended to read:

8554 **CHAPTER 8. MOTION PICTURE INCENTIVES**

8555 ~~[63M-1-1801].~~ **63N-8-101. Purpose.**

8556 (1) This chapter is known as "Motion Picture Incentives."

8557 ~~[(+)]~~ (2) The Legislature finds that:

8558 (a) the state's natural beauty, scenic wonders, and diverse topography provide a variety
8559 of magnificent settings from which the motion picture industry can choose to film part or all of
8560 major or independent motion pictures, made-for-television movies, and television series;

8561 (b) the state has an abundance of resources, including a skilled and able workforce, the
8562 required infrastructure, and a friendly and hospitable populace that have been instrumental in
8563 the filming of hundreds of successful motion pictures and several television series; and

8564 (c) further development of the motion picture industry in Utah is a state public purpose
8565 that will significantly impact growth in the state's economy and contribute to the fiscal well
8566 being of the state and its people.

8567 ~~[(2)]~~ (3) The purpose of this ~~[part]~~ chapter is to:

8568 (a) encourage the use of Utah as a site for the production of motion pictures, television
8569 series, and made-for-television movies;

8570 (b) provide financial incentives to the film industry so that Utah might compete
8571 successfully with other states and countries for filming locations; and

8572 (c) help develop a strong motion picture industry presence in the state that will
8573 contribute substantially to improving the state's economy.

8574 Section 225. Section **63N-8-102**, which is renumbered from Section 63M-1-1802 is
8575 renumbered and amended to read:

8576 ~~[63M-1-1802].~~ **63N-8-102. Definitions.**

8577 As used in this part:

8578 ~~[(1) "Board" means the Governor's Office of Economic Development Board.]~~

8579 ~~[(2)]~~ (1) "Digital media company" means a company engaged in the production of a
8580 digital media project.

8581 ~~[(3)]~~ (2) "Digital media project" means all or part of a production of interactive
8582 entertainment or animated production that is produced for distribution in commercial or
8583 educational markets, which shall include projects intended for Internet or wireless distribution.

8584 ~~[(4)]~~ (3) "Dollars left in the state" means expenditures made in the state for a
8585 state-approved production, including:
8586 (a) an expenditure that is subject to:
8587 (i) a corporate franchise or income tax under Title 59, Chapter 7, Corporate Franchise
8588 and Income Taxes;
8589 (ii) an individual income tax under Title 59, Chapter 10, Individual Income Tax Act;
8590 and
8591 (iii) a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act,
8592 notwithstanding any sales and use tax exemption allowed by law; or
8593 (iv) a combination of Subsections ~~[(4)]~~ (3)(a)(i), (ii), and (iii);
8594 (b) payments made to a nonresident only to the extent of the income tax paid to the
8595 state on the payments, the amount of per diems paid in the state, and other direct
8596 reimbursements transacted in the state; and
8597 (c) payments made to a payroll company or loan-out corporation that is registered to do
8598 business in the state, only to the extent of the amount of withholding under Section [59-10-402](#).
8599 ~~[(5)]~~ (4) "Loan-out corporation" means a corporation owned by one or more artists that
8600 provides services of the artists to a third party production company.
8601 ~~[(6)]~~ (5) "Motion picture company" means a company engaged in the production of:
8602 (a) motion pictures;
8603 (b) television series; or
8604 (c) made-for-television movies.
8605 ~~[(7)]~~ (6) "Motion picture incentive" means either a cash rebate from the Motion Picture
8606 Incentive Account or a refundable tax credit under Section [59-7-614.5](#) or [59-10-1108](#).
8607 ~~[(8)]~~ (7) "New state revenues" means:
8608 (a) incremental new state sales and use tax revenues generated as a result of a digital
8609 media project that a digital media company pays under Title 59, Chapter 12, Sales and Use Tax
8610 Act;
8611 (b) incremental new state tax revenues that a digital media company pays as a result of
8612 a digital media project under:
8613 (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
8614 (ii) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and

8615 Information;

8616 (iii) Title 59, Chapter 10, Part 2, Trusts and Estates;

8617 (iv) Title 59, Chapter 10, Part 4, Withholding of Tax; or

8618 (v) a combination of Subsections ~~[(8)]~~ (7)(b)(i), (ii), (iii), and (iv);

8619 (c) incremental new state revenues generated as individual income taxes under Title

8620 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, paid by

8621 employees of the new digital media project as evidenced by payroll records from the digital

8622 media company; or

8623 (d) a combination of Subsections ~~[(8)]~~ (7)(a), (b), and (c).

8624 ~~[(9)] "Office" means the Governor's Office of Economic Development.]~~

8625 ~~[(10)]~~ (8) "Payroll company" means a business entity that handles the payroll and

8626 becomes the employer of record for the staff, cast, and crew of a motion picture production.

8627 ~~[(11)]~~ (9) "Refundable tax credit" means a refundable motion picture tax credit

8628 authorized under Section ~~[63M-1-1803]~~ 63N-8-103 and claimed under Section 59-7-614.5 or

8629 59-10-1108.

8630 ~~[(12)]~~ (10) "Restricted account" means the Motion Picture Incentive Account created in

8631 Section ~~[63M-1-1803]~~ 63N-8-103.

8632 ~~[(13)]~~ (11) "State-approved production" means a production under Subsections ~~[(3)]~~

8633 (2) and ~~[(6)]~~ (5) that is:

8634 (a) approved by the office and ratified by the board; and

8635 (b) produced in the state by a motion picture company.

8636 ~~[(14)]~~ (12) "Tax credit amount" means the amount the office lists as a tax credit on a

8637 tax credit certificate for a taxable year.

8638 ~~[(15)]~~ (13) "Tax credit certificate" means a certificate issued by the office that:

8639 (a) lists the name of the applicant;

8640 (b) lists the applicant's taxpayer identification number;

8641 (c) lists the amount of tax credit that the office awards the applicant for the taxable

8642 year; and

8643 (d) may include other information as determined by the office.

8644 Section 226. Section **63N-8-103**, which is renumbered from Section 63M-1-1803 is

8645 renumbered and amended to read:

8646 ~~[63M-1-1803]~~. 63N-8-103. **Motion Picture Incentive Account created --**
8647 **Cash rebate incentives -- Refundable tax credit incentives.**

8648 (1) (a) There is created within the General Fund a restricted account known as the
8649 Motion Picture Incentive Account, which the office shall use to provide cash rebate incentives
8650 for state-approved productions by a motion picture company.

8651 (b) All interest generated from investment of money in the restricted account shall be
8652 deposited in the restricted account.

8653 (c) The restricted account shall consist of an annual appropriation by the Legislature.

8654 (d) The office shall:

8655 (i) with the advice of the board, administer the restricted account; and

8656 (ii) make payments from the restricted account as required under this section.

8657 (e) The cost of administering the restricted account shall be paid from money in the
8658 restricted account.

8659 (2) (a) A motion picture company or digital media company seeking disbursement of
8660 an incentive allowed under an agreement with the office shall follow the procedures and
8661 requirements of this Subsection (2).

8662 (b) The motion picture company or digital media company shall provide the office with
8663 a report identifying and documenting the dollars left in the state or new state revenues
8664 generated by the motion picture company or digital media company for its state-approved
8665 production, including any related tax returns by the motion picture company, payroll company,
8666 digital media company, or loan-out corporation under Subsection (2)(d).

8667 (c) For a motion picture company, an independent certified public accountant shall:

8668 (i) review the report submitted by the motion picture company; and

8669 (ii) attest to the accuracy and validity of the report, including the amount of dollars left
8670 in the state.

8671 (d) The motion picture company, digital media company, payroll company, or loan-out
8672 corporation shall provide the office with a document that expressly directs and authorizes the
8673 State Tax Commission to disclose the entity's tax returns and other information concerning the
8674 entity that would otherwise be subject to confidentiality under Section [59-1-403](#) or Section
8675 6103, Internal Revenue Code, to the office.

8676 (e) The office shall submit the document described in Subsection (2)(d) to the State

8677 Tax Commission.

8678 (f) Upon receipt of the document described in Subsection (2)(d), the State Tax
8679 Commission shall provide the office with the information requested by the office that the
8680 motion picture company, digital media company, payroll company, or loan-out corporation
8681 directed or authorized the State Tax Commission to provide to the office in the document
8682 described in Subsection (2)(d).

8683 (g) Subject to Subsection (3), for a motion picture company the office shall:

8684 (i) review the report from the motion picture company described in Subsection (2)(b)
8685 and verify that it was reviewed by an independent certified public accountant as described in
8686 Subsection (2)(c); and

8687 (ii) based upon the certified public accountant's attestation under Subsection (2)(c),
8688 determine the amount of the incentive that the motion picture company is entitled to under its
8689 agreement with the office.

8690 (h) Subject to Subsection (3), for a digital media company, the office shall:

8691 (i) ensure the digital media project results in new state revenue; and

8692 (ii) based upon review of new state revenue, determine the amount of the incentive that
8693 a digital media company is entitled to under its agreement with the office.

8694 (i) Subject to Subsection (3), if the incentive is in the form of a cash rebate, the office
8695 shall pay the incentive from the restricted account to the motion picture company,
8696 notwithstanding Subsections 51-5-3(23)(b) and 63J-1-104(4)(c).

8697 (j) If the incentive is in the form of a refundable tax credit under Section 59-7-614.5 or
8698 59-10-1108, the office shall:

8699 (i) issue a tax credit certificate to the motion picture company or digital media
8700 company; and

8701 (ii) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

8702 (k) A motion picture company or digital media company may not claim a motion
8703 picture tax credit under Section 59-7-614.5 or 59-10-1108 unless the motion picture company
8704 or digital media company has received a tax credit certificate for the claim issued by the office
8705 under Subsection (2)(j)(i).

8706 (l) A motion picture company or digital media company may claim a motion picture
8707 tax credit on its tax return for the amount listed on the tax credit certificate issued by the office.

8708 (m) A motion picture company or digital media company that claims a tax credit under
8709 Subsection (2)(l) shall retain the tax credit certificate and all supporting documentation in
8710 accordance with Subsection [~~63M-1-1804~~] 63N-8-104(6).

8711 (3) (a) Subject to Subsection (3)(b), the office may issue \$6,793,700 in tax credit
8712 certificates under this part in a fiscal year.

8713 (b) If the office does not issue tax credit certificates in a fiscal year totaling the amount
8714 authorized under Subsection (3)(a), it may carry over that amount for issuance in subsequent
8715 fiscal years.

8716 Section 227. Section **63N-8-104**, which is renumbered from Section 63M-1-1804 is
8717 renumbered and amended to read:

8718 ~~[63M-1-1804]~~. **63N-8-104. Motion picture incentives -- Standards to qualify**
8719 **for an incentive -- Limitations -- Content of agreement between office and motion picture**
8720 **company or digital media company.**

8721 (1) In addition to the requirements for receiving a motion picture incentive as set forth
8722 in this part, the office, in accordance with Title 63G, Chapter 3, Utah Administrative
8723 Rulemaking Act, shall make rules establishing:

8724 (a) the standards that a motion picture company or digital media company must meet to
8725 qualify for the motion picture incentive; and

8726 (b) criteria for determining the amount of the incentive.

8727 (2) The office shall ensure that those standards include the following:

8728 (a) an incentive may only be issued for a state approved production by a motion picture
8729 company or digital media company;

8730 (b) financing has been obtained and is in place for the production; and

8731 (c) the economic impact of the production on the state represents new incremental
8732 economic activity in the state as opposed to existing economic activity.

8733 (3) With respect to a digital media project, the office shall consider economic
8734 modeling, including the costs and benefits of the digital media project to state and local
8735 governments in determining the motion picture incentive amount.

8736 (4) The office may also consider giving preference to a production that stimulates
8737 economic activity in rural areas of the state or that has Utah content, such as recognizing that
8738 the production was made in the state or uses Utah as Utah in the production.

8739 (5) (a) The office, with advice from the board, may enter into an agreement with a
8740 motion picture company or digital media company that meets the standards established under
8741 this section and satisfies the other qualification requirements under this part.

8742 (b) Subject to Subsection [~~63M-1-1803~~] 63N-8-103(3), the office may commit or
8743 authorize a motion picture incentive:

8744 (i) to a motion picture company of up to 20% of the dollars left in the state by the
8745 motion picture company, and a motion picture company can receive an additional 5%, not to
8746 exceed 25% of the dollars left in the state by the motion picture company if the company
8747 fulfills certain requirements determined by the office including:

8748 (A) employing a significant percentage of cast and crew from Utah;

8749 (B) highlighting the state of Utah and the Utah Film Commission in the motion picture
8750 credits; or

8751 (C) other promotion opportunities as agreed upon by the office and the motion picture
8752 company; and

8753 (ii) to a digital media company, if the incentive does not exceed 100% of the new state
8754 revenue less the considerations under Subsection (3), but not to exceed 20% of the dollars left
8755 in the state by the digital media company.

8756 (c) A cash rebate incentive from the Motion Picture Incentive Restricted Account may
8757 not exceed \$500,000 per state approved production for a motion picture project.

8758 (d) The office may not give a cash rebate incentive from the Motion Picture Incentive
8759 Restricted Account for a digital media project.

8760 (6) The office shall ensure that the agreement entered into with a motion picture
8761 company or digital media company under Subsection (5)(a):

8762 (a) details the requirements that the motion picture company or digital media company
8763 must meet to qualify for an incentive under this part;

8764 (b) specifies:

8765 (i) the nature of the incentive; and

8766 (ii) the maximum amount of the motion picture incentive that the motion picture
8767 company or digital media company may earn for a taxable year and over the life of the
8768 production;

8769 (c) establishes the length of time over which the motion picture company or digital

8770 media company may claim the motion picture incentive;

8771 (d) requires the motion picture company or digital media company to retain records
8772 supporting its claim for a motion picture incentive for at least four years after the motion
8773 picture company or digital media company claims the incentive under this part; and

8774 (e) requires the motion picture company or digital media company to submit to audits
8775 for verification of the claimed motion picture incentive.

8776 Section 228. Section **63N-8-105**, which is renumbered from Section 63M-1-1805 is
8777 renumbered and amended to read:

8778 ~~[63M-1-1805]~~. **63N-8-105. Annual report.**

8779 The office shall include the following information in the annual written report described
8780 in Section [~~63M-1-206~~] 63N-1-301:

8781 (1) the office's success in attracting within-the-state production of television series,
8782 made-for-television movies, and motion pictures, including feature films and independent
8783 films;

8784 (2) the amount of incentive commitments made by the office under this part and the
8785 period of time over which the incentives will be paid; and

8786 (3) the economic impact on the state related to:

8787 (a) dollars left in the state; and

8788 (b) providing motion picture incentives under this part.

8789 Section 229. Section **63N-9-101**, which is renumbered from Section 63M-1-3301 is
8790 renumbered and amended to read:

8791 **CHAPTER 9. UTAH OFFICE OF OUTDOOR RECREATION**

8792 ~~[63M-1-3301]~~. **63N-9-101. Title.**

8793 This [~~part~~] chapter is known as the "Utah Office of Outdoor Recreation [Office Act]."

8794 Section 230. Section **63N-9-102**, which is renumbered from Section 63M-1-3302 is
8795 renumbered and amended to read:

8796 ~~[63M-1-3302]~~. **63N-9-102. Definitions.**

8797 As used in this [~~part~~] chapter:

8798 (1) "Director" means the director of the outdoor recreation office.

8799 (2) "Executive director" means the executive director of [~~the Governor's Office of~~
8800 ~~Economic Development created in Section~~ ~~63M-1-201~~] GOED.

8801 (3) [~~Office~~] "Outdoor recreation office" means the Utah Office of Outdoor
 8802 Recreation [~~Office~~] created in Section [~~63M-1-3304~~] 63N-9-104.

8803 Section 231. Section **63N-9-103**, which is renumbered from Section 63M-1-3303 is
 8804 renumbered and amended to read:

8805 **[~~63M-1-3303~~]. 63N-9-103. Policy.**

8806 It is the declared policy of the state that outdoor recreation is vital to a diverse economy
 8807 and a healthy community.

8808 Section 232. Section **63N-9-104**, which is renumbered from Section 63M-1-3304 is
 8809 renumbered and amended to read:

8810 **[~~63M-1-3304~~]. 63N-9-104. Creation of office and appointment of director --**
 8811 **Purposes of office.**

8812 (1) There is created within the Governor's Office of Economic Development [~~an~~] the
 8813 Utah Office of Outdoor Recreation [~~Office~~].

8814 (2) (a) The executive director shall appoint a director of the outdoor recreation office.

8815 (b) The director shall report to the executive director and may appoint staff.

8816 (3) The purposes of the office are to:

8817 (a) coordinate outdoor recreation policy, management, and promotion:

8818 (i) among state and federal agencies and local government entities in the state; and

8819 (ii) with the Public Lands Policy Coordinating Office created in Section 63J-4-602, if
 8820 public land is involved;

8821 (b) promote economic development by:

8822 (i) coordinating with outdoor recreation stakeholders;

8823 (ii) improving recreational opportunities; and

8824 (iii) recruiting outdoor recreation business;

8825 (c) recommend to the governor and Legislature policies and initiatives to enhance
 8826 recreational amenities and experiences in the state and help implement those policies and
 8827 initiatives;

8828 (d) develop data regarding the impacts of outdoor recreation in the state; and

8829 (e) promote the health and social benefits of outdoor recreation, especially to young
 8830 people.

8831 Section 233. Section **63N-9-105**, which is renumbered from Section 63M-1-3305 is

8832 renumbered and amended to read:

8833 ~~[63M-1-3305].~~ **63N-9-105. Duties of director.**

8834 (1) The director shall:

8835 (a) assure that the purposes outlined in Subsection ~~[63M-1-3304]~~ 63N-9-104(3) are

8836 fulfilled; and

8837 (b) organize and provide administrative oversight to the outdoor recreation office staff.

8838 (2) By following the procedures and requirements of Title 63J, Chapter 5, Federal

8839 Funds Procedures Act, the outdoor recreation office may:

8840 (a) seek federal grants or loans;

8841 (b) seek to participate in federal programs; and

8842 (c) in accordance with applicable federal program guidelines, administer federally

8843 funded outdoor recreation programs.

8844 (3) For purposes of administering this part, the outdoor recreation office may make

8845 rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

8846 Section 234. Section **63N-9-106**, which is renumbered from Section 63M-1-3306 is

8847 renumbered and amended to read:

8848 ~~[63M-1-3306].~~ **63N-9-106. Annual report.**

8849 The executive director shall include in the annual written report described in Section

8850 ~~[63M-1-206]~~ 63N-1-301, a report from the director on the activities of the outdoor recreation

8851 office.

8852 Section 235. Section **63N-10-101**, which is renumbered from Section 63C-11-101 is

8853 renumbered and amended to read:

8854 **CHAPTER 10. PETE SUAZO UTAH ATHLETIC COMMISSION ACT**

8855 **Part 1. General Provisions**

8856 ~~[63C-11-101].~~ **63N-10-101. Title.**

8857 This chapter is known as the "Pete Suazo Utah Athletic Commission Act."

8858 Section 236. Section **63N-10-102**, which is renumbered from Section 63C-11-102 is

8859 renumbered and amended to read:

8860 ~~[63C-11-102].~~ **63N-10-102. Definitions.**

8861 As used in this chapter:

8862 (1) "Bodily injury" ~~[is]~~ has the same meaning as defined in Section 76-1-601.

8863 (2) "Boxing" means the sport of attack and defense using the fist, which is covered by
8864 an approved boxing glove.

8865 (3) (a) "Club fighting" means any contest of unarmed combat, whether admission is
8866 charged or not, where:

8867 (i) the rules of the contest are not approved by the commission;

8868 (ii) a licensed physician or osteopath approved by the commission is not in attendance;

8869 (iii) a correct HIV negative test regarding each contestant has not been provided to the
8870 commission;

8871 (iv) the contest is not conducted in accordance with commission rules; or

8872 (v) the contestants are not matched by the weight standards established in accordance
8873 with Section [63C-11-316](#).

8874 (b) "Club fighting" does not include sparring if:

8875 (i) it is conducted for training purposes;

8876 (ii) no tickets are sold to spectators;

8877 (iii) no concessions are available for spectators;

8878 (iv) protective clothing, including protective headgear, a mouthguard, and a protective
8879 cup, is worn; and

8880 (v) for boxing, 16 ounce boxing gloves are worn.

8881 (4) "Commission" means the Pete Suazo Utah Athletic Commission created by this
8882 chapter.

8883 (5) "Contest" means a live match, performance, or exhibition involving two or more
8884 persons engaged in unarmed combat.

8885 (6) "Contestant" means an individual who participates in a contest.

8886 (7) "Designated commission member" means a member of the commission designated
8887 to:

8888 (a) attend and supervise a particular contest; and

8889 (b) act on the behalf of the commission at a contest venue.

8890 (8) "Director" means the director appointed by the commission.

8891 (9) "Elimination unarmed combat contest" means a contest where:

8892 (a) a number of contestants participate in a tournament;

8893 (b) the duration is not more than 48 hours; and

- 8894 (c) the loser of each contest is eliminated from further competition.
- 8895 (10) "Exhibition" means an engagement in which the participants show or display their
- 8896 skills without necessarily striving to win.
- 8897 (11) "Judge" means an individual qualified by training or experience to:
- 8898 (a) rate the performance of contestants;
- 8899 (b) score a contest; and
- 8900 (c) determine with other judges whether there is a winner of the contest or whether the
- 8901 contestants performed equally, resulting in a draw.
- 8902 (12) "Licensee" means an individual licensed by the commission to act as a:
- 8903 (a) contestant;
- 8904 (b) judge;
- 8905 (c) manager;
- 8906 (d) promoter;
- 8907 (e) referee;
- 8908 (f) second; or
- 8909 (g) other official established by the commission by rule.
- 8910 (13) "Manager" means an individual who represents a contestant for the purpose of:
- 8911 (a) obtaining a contest for a contestant;
- 8912 (b) negotiating terms and conditions of the contract under which the contestant will
- 8913 engage in a contest; or
- 8914 (c) arranging for a second for the contestant at a contest.
- 8915 (14) "Promoter" means a person who engages in producing or staging contests and
- 8916 promotions.
- 8917 (15) "Promotion" means a single contest or a combination of contests that:
- 8918 (a) occur during the same time and at the same location; and
- 8919 (b) is produced or staged by a promoter.
- 8920 (16) "Purse" means any money, prize, remuneration, or any other valuable
- 8921 consideration a contestant receives or may receive for participation in a contest.
- 8922 (17) "Referee" means an individual qualified by training or experience to act as the
- 8923 official attending a contest at the point of contact between contestants for the purpose of:
- 8924 (a) enforcing the rules relating to the contest;

8925 (b) stopping the contest in the event the health, safety, and welfare of a contestant or
8926 any other person in attendance at the contest is in jeopardy; and

8927 (c) acting as a judge if so designated by the commission.

8928 (18) "Round" means one of a number of individual time periods that, taken together,
8929 constitute a contest during which contestants are engaged in a form of unarmed combat.

8930 (19) "Second" means an individual who attends a contestant at the site of the contest
8931 before, during, and after the contest in accordance with contest rules.

8932 (20) "Serious bodily injury" [~~is~~] has the same meaning as defined in Section 76-1-601.

8933 (21) "Total gross receipts" means the amount of the face value of all tickets sold to a
8934 particular contest plus any sums received as consideration for holding the contest at a particular
8935 location.

8936 (22) "Ultimate fighting" means a live contest, whether or not an admission fee is
8937 charged, in which:

8938 (a) contest rules permit contestants to use a combination of boxing, kicking, wrestling,
8939 hitting, punching, or other combative contact techniques;

8940 (b) contest rules incorporate a formalized system of combative techniques against
8941 which a contestant's performance is judged to determine the prevailing contestant;

8942 (c) contest rules divide nonchampionship contests into three equal and specified rounds
8943 of no more than five minutes per round with a rest period of one minute between each round;

8944 (d) contest rules divide championship contests into five equal and specified rounds of
8945 no more than five minutes per round with a rest period of one minute between each round; and

8946 (e) contest rules prohibit contestants from:

8947 (i) using anything that is not part of the human body, except for boxing gloves, to
8948 intentionally inflict serious bodily injury upon an opponent through direct contact or the
8949 expulsion of a projectile;

8950 (ii) striking a person who demonstrates an inability to protect himself from the
8951 advances of an opponent;

8952 (iii) biting; or

8953 (iv) direct, intentional, and forceful strikes to the eyes, groin area, Adam's apple area of
8954 the neck, and the rear area of the head and neck.

8955 (23) (a) "Unarmed combat" means boxing or any other form of competition in which a

8956 blow is usually struck which may reasonably be expected to inflict bodily injury.

8957 (b) "Unarmed combat" does not include a competition or exhibition between
8958 participants in which the participants engage in simulated combat for entertainment purposes.

8959 (24) "Unlawful conduct" means organizing, promoting, or participating in a contest
8960 which involves contestants that are not licensed under this chapter.

8961 (25) "Unprofessional conduct" means:

8962 (a) entering into a contract for a contest in bad faith;

8963 (b) participating in any sham or fake contest;

8964 (c) participating in a contest pursuant to a collusive understanding or agreement in
8965 which the contestant competes in or terminates the contest in a manner that is not based upon
8966 honest competition or the honest exhibition of the skill of the contestant;

8967 (d) engaging in an act or conduct that is detrimental to a contest, including any foul or
8968 unsportsmanlike conduct in connection with a contest;

8969 (e) failing to comply with any limitation, restriction, or condition placed on a license;

8970 (f) striking of a downed opponent by a contestant while the contestant remains on the
8971 contestant's feet, unless the designated commission member or director has exempted the
8972 contest and each contestant from the prohibition on striking a downed opponent before the start
8973 of the contest;

8974 (g) after entering the ring or contest area, penetrating an area within four feet of an
8975 opponent by a contestant, manager, or second before the commencement of the contest; or

8976 (h) as further defined by rules made by the commission under Title 63G, Chapter 3,
8977 Utah Administrative Rulemaking Act.

8978 (26) "White-collar contest" means a contest conducted at a training facility where no
8979 alcohol is served in which:

8980 (a) for boxing:

8981 (i) neither contestant is or has been a licensed contestant in any state or an amateur
8982 registered with USA Boxing, Inc.;

8983 (ii) no cash prize, or other prize valued at greater than \$35, is awarded;

8984 (iii) protective clothing, including protective headgear, a mouthguard, a protective cup,
8985 and for a female contestant a chestguard, is worn;

8986 (iv) 16 ounce boxing gloves are worn;

8987 (v) the contest is no longer than three rounds of no longer than three minutes each;

8988 (vi) no winner or loser is declared or recorded; and

8989 (vii) the contestants do not compete in a cage; and

8990 (b) for ultimate fighting:

8991 (i) neither contestant is or has been a licensed contestant in any state or an amateur
8992 registered with USA Boxing, Inc.;

8993 (ii) no cash prize, or other prize valued at greater than \$35, is awarded;

8994 (iii) protective clothing, including a protective mouthguard and a protective cup, is
8995 worn;

8996 (iv) downward elbow strikes are not allowed;

8997 (v) a contestant is not allowed to stand and strike a downed opponent;

8998 (vi) a closed-hand blow to the head is not allowed while either contestant is on the
8999 ground;

9000 (vii) the contest is no longer than three rounds of no longer than three minutes each;

9001 and

9002 (viii) no winner or loser is declared or recorded.

9003 Section 237. Section **63N-10-201**, which is renumbered from Section 63C-11-201 is
9004 renumbered and amended to read:

9005 **Part 2. Pete Suazo Utah Athletic Commission**

9006 ~~[63C-11-201]~~. **63N-10-201. Commission -- Creation -- Appointments --**

9007 **Terms -- Expenses -- Quorum.**

9008 (1) There is created within the [~~Governor's Office of Economic Development~~] office
9009 the Pete Suazo Utah Athletic Commission consisting of five members.

9010 (2) (a) The governor shall appoint three commission members.

9011 (b) The president of the Senate and the speaker of the House of Representatives shall
9012 each appoint one commission member.

9013 (c) The commission members may not be licensees under this chapter.

9014 (d) A member of the commission serving on June 30, 2009, shall continue as a member
9015 of the commission until the expiration of the member's term then existing, or until the
9016 expiration of any subsequent term to which the member is appointed.

9017 (3) (a) Except as required by Subsection (3)(b), as terms of current members expire, the

9018 governor, president, or speaker, respectively, shall appoint each new member or reappointed
9019 member to a four-year term.

9020 (b) The governor shall, at the time of appointment or reappointment, adjust the length
9021 of the governor's appointees' terms to ensure that the terms of members are staggered so that
9022 approximately half of the commission is appointed every two years.

9023 (c) When a vacancy occurs in the membership for any reason, the replacement shall be
9024 appointed for the unexpired term.

9025 (d) If a commission member fails or refuses to fulfill the responsibilities and duties of a
9026 commission member, including the attendance at commission meetings, the governor,
9027 president, or speaker, respectively, with the approval of the commission, may remove the
9028 commission member and replace the member in accordance with this section.

9029 (4) (a) A majority of the commission members constitutes a quorum.

9030 (b) A majority of a quorum is sufficient authority for the commission to act.

9031 (5) A member may not receive compensation or benefits for the member's service, but
9032 may receive per diem and travel expenses in accordance with:

9033 (a) Section [63A-3-106](#);

9034 (b) Section [63A-3-107](#); and

9035 (c) rules made by the Division of Finance [~~pursuant to~~] under Sections [63A-3-106](#) and
9036 [63A-3-107](#).

9037 (6) The commission shall annually designate one of its members to serve as chair for a
9038 one-year period.

9039 Section 238. Section **63N-10-202**, which is renumbered from Section 63C-11-202 is
9040 renumbered and amended to read:

9041 ~~[63C-11-202]~~. **63N-10-202. Commission powers and duties.**

9042 (1) The commission shall:

9043 (a) purchase and use a seal;

9044 (b) adopt rules for the administration of this chapter in accordance with Title 63G,
9045 Chapter 3, Utah Administrative Rulemaking Act;

9046 (c) prepare all forms of contracts between sponsors, licensees, promoters, and
9047 contestants; and

9048 (d) hold hearings relating to matters under its jurisdiction, including violations of this

9049 chapter or rules made under this chapter.

9050 (2) The commission may subpoena witnesses, take evidence, and require the
9051 production of books, papers, documents, records, contracts, recordings, tapes, correspondence,
9052 or other information relevant to an investigation if the commission or its designee considers it
9053 necessary.

9054 Section 239. Section **63N-10-203**, which is renumbered from Section 63C-11-203 is
9055 renumbered and amended to read:

9056 ~~[63C-11-203]~~. **63N-10-203. Commission director.**

9057 (1) The commission shall employ a director, who may not be a member of the
9058 commission, to conduct the commission's business.

9059 (2) The director serves at the pleasure of the commission.

9060 Section 240. Section **63N-10-204**, which is renumbered from Section 63C-11-204 is
9061 renumbered and amended to read:

9062 ~~[63C-11-204]~~. **63N-10-204. Inspectors.**

9063 (1) The commission may appoint one or more official representatives to be designated
9064 as inspectors, who shall serve at the pleasure of the commission.

9065 (2) Each inspector must receive from the commission a card authorizing that inspector
9066 to act as an inspector for the commission.

9067 (3) An inspector may not promote or sponsor any contest.

9068 (4) Each inspector may receive a fee approved by the commission for the performance
9069 of duties under this chapter.

9070 Section 241. Section **63N-10-205**, which is renumbered from Section 63C-11-205 is
9071 renumbered and amended to read:

9072 ~~[63C-11-205]~~. **63N-10-205. Affiliation with other commissions.**

9073 The commission may affiliate with any other state, tribal, or national boxing
9074 commission or athletic authority.

9075 Section 242. Section **63N-10-301**, which is renumbered from Section 63C-11-301 is
9076 renumbered and amended to read:

9077 **Part 3. Licensing**

9078 ~~[63C-11-301]~~. **63N-10-301. Licensing.**

9079 (1) A license is required for a person to act as or to represent that the person is:

- 9080 (a) a promoter;
- 9081 (b) a manager;
- 9082 (c) a contestant;
- 9083 (d) a second;
- 9084 (e) a referee;
- 9085 (f) a judge; or
- 9086 (g) another official established by the commission by rule.
- 9087 (2) The commission shall issue to a person who qualifies under this chapter a license in
- 9088 the classifications of:
 - 9089 (a) promoter;
 - 9090 (b) manager;
 - 9091 (c) contestant;
 - 9092 (d) second;
 - 9093 (e) referee;
 - 9094 (f) judge; or
 - 9095 (g) another official who meets the requirements established by rule under Subsection
 - 9096 (1)(g).
- 9097 (3) ~~[(a)]~~ All money collected ~~[pursuant to]~~ under this section and Sections
- 9098 ~~[63C-11-304, 63C-11-307, 63C-11-310, and 63C-11-313]~~ 63N-10-304, 63N-10-307,
- 9099 63N-10-310, and 63N-10-313 shall be retained as dedicated credits to pay for commission
- 9100 expenses.
- 9101 ~~[(b) All money available to the commission under Subsection (3)(a) to pay for~~
- 9102 ~~commission expenses is nonlapsing for fiscal year 2009-10 only.]~~
- 9103 (4) Each applicant for licensure as a promoter shall:
 - 9104 (a) submit an application in a form prescribed by the commission;
 - 9105 (b) pay the fee determined by the commission under Section 63J-1-504;
 - 9106 (c) provide to the commission evidence of financial responsibility, which shall include
 - 9107 financial statements and other information that the commission may reasonably require to
 - 9108 determine that the applicant or licensee is able to competently perform as and meet the
 - 9109 obligations of a promoter in this state;
 - 9110 (d) make assurances that the applicant:

9111 (i) is not engaging in illegal gambling with respect to sporting events or gambling with
9112 respect to the promotions the applicant is promoting;

9113 (ii) has not been found in a criminal or civil proceeding to have engaged in or
9114 attempted to engage in any fraud or misrepresentation in connection with a contest or any other
9115 sporting event; and

9116 (iii) has not been found in a criminal or civil proceeding to have violated or attempted
9117 to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating
9118 to the regulation of contests in this state or any other jurisdiction;

9119 (e) acknowledge in writing to the commission receipt, understanding, and intent to
9120 comply with this chapter and the rules made under this chapter; and

9121 (f) if requested by the commission or the director, meet with the commission or the
9122 director to examine the applicant's qualifications for licensure.

9123 (5) Each applicant for licensure as a contestant shall:

9124 (a) be not less than 18 years of age at the time the application is submitted to the
9125 commission;

9126 (b) submit an application in a form prescribed by the commission;

9127 (c) pay the fee established by the commission under Section [63J-1-504](#);

9128 (d) provide a certificate of physical examination, dated not more than 60 days prior to
9129 the date of application for licensure, in a form provided by the commission, completed by a
9130 licensed physician and surgeon certifying that the applicant is free from any physical or mental
9131 condition that indicates the applicant should not engage in activity as a contestant;

9132 (e) make assurances that the applicant:

9133 (i) is not engaging in illegal gambling with respect to sporting events or gambling with
9134 respect to a contest in which the applicant will participate;

9135 (ii) has not been found in a criminal or civil proceeding to have engaged in or
9136 attempted to have engaged in any fraud or misrepresentation in connection with a contest or
9137 any other sporting event; and

9138 (iii) has not been found in a criminal or civil proceeding to have violated or attempted
9139 to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating
9140 to the regulation of contests in this state or any other jurisdiction;

9141 (f) acknowledge in writing to the commission receipt, understanding, and intent to

9142 comply with this chapter and the rules made under this chapter; and

9143 (g) if requested by the commission or the director, meet with the commission or the
9144 director to examine the applicant's qualifications for licensure.

9145 (6) Each applicant for licensure as a manager or second shall:

9146 (a) submit an application in a form prescribed by the commission;

9147 (b) pay a fee determined by the commission under Section [63J-1-504](#);

9148 (c) make assurances that the applicant:

9149 (i) is not engaging in illegal gambling with respect to sporting events or gambling with
9150 respect to a contest in which the applicant is participating;

9151 (ii) has not been found in a criminal or civil proceeding to have engaged in or
9152 attempted to have engaged in any fraud or misrepresentation in connection with a contest or
9153 any other sporting event; and

9154 (iii) has not been found in a criminal or civil proceeding to have violated or attempted
9155 to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating
9156 to the regulation of contests in this state or any other jurisdiction;

9157 (d) acknowledge in writing to the commission receipt, understanding, and intent to
9158 comply with this chapter and the rules made under this chapter; and

9159 (e) if requested by the commission or director, meet with the commission or the
9160 director to examine the applicant's qualifications for licensure.

9161 (7) Each applicant for licensure as a referee or judge shall:

9162 (a) submit an application in a form prescribed by the commission;

9163 (b) pay a fee determined by the commission under Section [63J-1-504](#);

9164 (c) make assurances that the applicant:

9165 (i) is not engaging in illegal gambling with respect to sporting events or gambling with
9166 respect to a contest in which the applicant is participating;

9167 (ii) has not been found in a criminal or civil proceeding to have engaged in or
9168 attempted to have engaged in any fraud or misrepresentation in connection with a contest or
9169 any other sporting event; and

9170 (iii) has not been found in a criminal or civil proceeding to have violated or attempted
9171 to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating
9172 to the regulation of contests in this state or any other jurisdiction;

9173 (d) acknowledge in writing to the commission receipt, understanding, and intent to
9174 comply with this chapter and the rules made under this chapter;

9175 (e) provide evidence satisfactory to the commission that the applicant is qualified by
9176 training and experience to competently act as a referee or judge in a contest; and

9177 (f) if requested by the commission or the director, meet with the commission or the
9178 director to examine the applicant's qualifications for licensure.

9179 (8) The commission may make rules concerning the requirements for a license under
9180 this chapter, that deny a license to an applicant for the violation of a crime that, in the
9181 commission's determination, would have a material affect on the integrity of a contest held
9182 under this chapter.

9183 (9) (a) A licensee serves at the pleasure, and under the direction, of the commission
9184 while participating in any way at a contest.

9185 (b) A licensee's license may be suspended, or a fine imposed, if the licensee does not
9186 follow the commission's direction at an event or contest.

9187 Section 243. Section **63N-10-302**, which is renumbered from Section 63C-11-302 is
9188 renumbered and amended to read:

9189 ~~[63C-11-302].~~ **63N-10-302. Term of license -- Expiration -- Renewal.**

9190 (1) The commission shall issue each license under this chapter in accordance with a
9191 renewal cycle established by rule.

9192 (2) At the time of renewal, the licensee shall show satisfactory evidence of compliance
9193 with renewal requirements established by rule by the commission.

9194 (3) Each license automatically expires on the expiration date shown on the license
9195 unless the licensee renews it in accordance with the rules established by the commission.

9196 Section 244. Section **63N-10-303**, which is renumbered from Section 63C-11-303 is
9197 renumbered and amended to read:

9198 ~~[63C-11-303].~~ **63N-10-303. Grounds for denial of license -- Disciplinary**
9199 **proceedings -- Reinstatement.**

9200 (1) The commission shall refuse to issue a license to an applicant and shall refuse to
9201 renew or shall revoke, suspend, restrict, place on probation, or otherwise act upon the license of
9202 a licensee who does not meet the qualifications for licensure under this chapter.

9203 (2) The commission may refuse to issue a license to an applicant and may refuse to

9204 renew or may revoke, suspend, restrict, place on probation, issue a public or private reprimand
9205 to, or otherwise act upon the license of any licensee if:

9206 (a) the applicant or licensee has engaged in unlawful or unprofessional conduct, as
9207 defined by statute or rule under this chapter;

9208 (b) the applicant or licensee has been determined to be mentally incompetent for any
9209 reason by a court of competent jurisdiction; or

9210 (c) the applicant or licensee is unable to practice the occupation or profession with
9211 reasonable skill and safety because of illness, drunkenness, excessive use of drugs, narcotics,
9212 chemicals, or any other type of material, or as a result of any other mental or physical
9213 condition, when the licensee's condition demonstrates a threat or potential threat to the public
9214 health, safety, or welfare, as determined by a ringside physician or the commission.

9215 (3) Any licensee whose license under this chapter has been suspended, revoked, or
9216 restricted may apply for reinstatement of the license at reasonable intervals and upon
9217 compliance with any conditions imposed upon the licensee by statute, rule, or terms of the
9218 license suspension, revocation, or restriction.

9219 (4) The commission may issue cease and desist orders:

9220 (a) to a licensee or applicant who may be disciplined under Subsection (1) or (2); and

9221 (b) to any person who otherwise violates this chapter or any rules adopted under this
9222 chapter.

9223 (5) (a) The commission may impose an administrative fine for acts of unprofessional or
9224 unlawful conduct under this chapter.

9225 (b) An administrative fine under this Subsection (5) may not exceed \$2,500 for each
9226 separate act of unprofessional or unlawful conduct.

9227 (c) The commission shall comply with Title 63G, Chapter 4, Administrative
9228 Procedures Act, in any action to impose an administrative fine under this chapter.

9229 (d) The imposition of a fine under this Subsection (5) does not affect any other action
9230 the commission or department may take concerning a license issued under this chapter.

9231 (6) (a) The commission may not take disciplinary action against any person for
9232 unlawful or unprofessional conduct under this chapter, unless the commission initiates an
9233 adjudicative proceeding regarding the conduct within four years after the conduct is reported to
9234 the commission, except under Subsection (6)(b).

9235 (b) The commission may not take disciplinary action against any person for unlawful
 9236 or unprofessional conduct more than 10 years after the occurrence of the conduct, unless the
 9237 proceeding is in response to a civil or criminal judgment or settlement and the proceeding is
 9238 initiated within one year following the judgment or settlement.

9239 (7) (a) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, the
 9240 following may immediately suspend the license of a licensee at such time and for such period
 9241 that the following believes is necessary to protect the health, safety, and welfare of the licensee,
 9242 another licensee, or the public:

9243 (i) the commission;

9244 (ii) a designated commission member; or

9245 (iii) if a designated commission member is not present, the director.

9246 (b) The commission shall establish by rule appropriate procedures to invoke the
 9247 suspension and to provide a suspended licensee a right to a hearing before the commission with
 9248 respect to the suspension within a reasonable time after the suspension.

9249 Section 245. Section **63N-10-304**, which is renumbered from Section 63C-11-304 is
 9250 renumbered and amended to read:

9251 ~~[63C-11-304].~~ **63N-10-304. Additional fees for license of promoter --**
 9252 **Dedicated credits -- Promotion of contests -- Annual exemption of showcase event.**

9253 (1) In addition to the payment of any other fees and money due under this chapter,
 9254 every promoter shall pay a license fee determined by the commission and established in rule.

9255 ~~[(a)]~~ (2) License fees collected under this Subsection ~~[(1)(a)]~~ (2) from professional
 9256 boxing contests or exhibitions shall be retained by the commission as a dedicated credit to be
 9257 used by the commission to award grants to organizations that promote amateur boxing in the
 9258 state and cover commission expenses.

9259 ~~[(b) Money available to the commission for awarding grants to organizations that~~
 9260 ~~promote amateur boxing in the state and covering commission expenses is nonlapsing for fiscal~~
 9261 ~~year 2009-10 only.]~~

9262 ~~[(2)]~~ (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
 9263 Act, the commission shall adopt rules:

9264 (a) governing the manner in which applications for grants under Subsection ~~[(1)]~~ (2)
 9265 may be submitted to the commission; and

9266 (b) establishing standards for awarding grants under Subsection [(1)] (2) to
9267 organizations which promote amateur boxing in the state.

9268 [(3)] (4) (a) For the purpose of creating a greater interest in contests in the state, the
9269 commission may exempt from the payment of license fees under this section one contest or
9270 exhibition in each calendar year, intended as a showcase event.

9271 (b) The commission shall select the contest or exhibition to be exempted based on
9272 factors which include:

- 9273 (i) attraction of the optimum number of spectators;
- 9274 (ii) costs of promoting and producing the contest or exhibition;
- 9275 (iii) ticket pricing;
- 9276 (iv) committed promotions and advertising of the contest or exhibition;
- 9277 (v) rankings and quality of the contestants; and
- 9278 (vi) committed television and other media coverage of the contest or exhibition.

9279 Section 246. Section **63N-10-305**, which is renumbered from Section 63C-11-305 is
9280 renumbered and amended to read:

9281 ~~63C-11-305~~. **63N-10-305. Jurisdiction of commission.**

9282 (1) (a) The commission has the sole authority concerning direction, management,
9283 control, and jurisdiction over all contests or exhibitions of unarmed combat to be conducted,
9284 held, or given within this state.

9285 (b) A contest or exhibition may not be conducted, held, or given within this state
9286 except in accordance with this chapter.

9287 (2) Any contest involving a form of unarmed self-defense must be conducted pursuant
9288 to rules for that form which are approved by the commission before the contest is conducted,
9289 held, or given.

9290 (3) (a) An area not less than six feet from the perimeter of the ring shall be reserved for
9291 the use of:

- 9292 (i) the designated commission member;
- 9293 (ii) other commission members in attendance;
- 9294 (iii) the director;
- 9295 (iv) commission employees;
- 9296 (v) officials;

- 9297 (vi) licensees participating or assisting in the contest; and
 9298 (vii) others granted credentials by the commission.
- 9299 (b) The promoter shall provide security at the direction of the commission or
 9300 designated commission member to secure the area described in Subsection (3)(a).
- 9301 (4) The area described in Subsection (3), the area in the dressing rooms, and other
 9302 areas considered necessary by the designated commission member for the safety and welfare of
 9303 a licensee and the public shall be reserved for the use of:
- 9304 (a) the designated commission member;
 9305 (b) other commission members in attendance;
 9306 (c) the director;
 9307 (d) commission employees;
 9308 (e) officials;
 9309 (f) licensees participating or assisting in the contest; and
 9310 (g) others granted credentials by the commission.
- 9311 (5) The promoter shall provide security at the direction of the commission or
 9312 designated commission member to secure the areas described in Subsections (3) and (4).
- 9313 (6) (a) The designated commission member may direct the removal from the contest
 9314 venue and premises, of any individual whose actions:
- 9315 (i) are disruptive to the safe conduct of the contest; or
 9316 (ii) pose a danger to the safety and welfare of the licensees, the commission, or the
 9317 public, as determined by the designated commission member.
- 9318 (b) The promoter shall provide security at the direction of the commission or
 9319 designated commission member to effectuate a removal under Subsection (6)(a).
- 9320 Section 247. Section **63N-10-306**, which is renumbered from Section 63C-11-306 is
 9321 renumbered and amended to read:
- 9322 ~~[63C-11-306].~~ **63N-10-306. Club fighting prohibited.**
- 9323 (1) Club fighting is prohibited.
- 9324 (2) Any person who publicizes, promotes, conducts, or engages in a club fighting
 9325 match is:
- 9326 (a) guilty of a class A misdemeanor as provided in Section [76-9-705](#); and
 9327 (b) subject to license revocation under this chapter.

9328 Section 248. Section **63N-10-307**, which is renumbered from Section 63C-11-307 is
9329 renumbered and amended to read:

9330 ~~[63C-11-307]~~. **63N-10-307. Approval to hold contest or promotion -- Bond**
9331 **required.**

9332 (1) An application to hold a contest or multiple contests as part of a single promotion
9333 shall be made by a licensed promoter to the commission on forms provided by the commission.

9334 (2) The application shall be accompanied by a contest fee determined by the
9335 commission under Section [63J-1-505](#).

9336 (3) (a) The commission may approve or deny approval to hold a contest or promotion
9337 permitted under this chapter.

9338 (b) Provisional approval under Subsection (3)(a) shall be granted upon a determination
9339 by the commission that:

9340 (i) the promoter of the contest or promotion is properly licensed;

9341 (ii) a bond meeting the requirements of Subsection (6) has been posted by the promoter
9342 of the contest or promotion; and

9343 (iii) the contest or promotion will be held in accordance with this chapter and rules
9344 made under this chapter.

9345 (4) (a) Final approval to hold a contest or promotion may not be granted unless the
9346 commission receives, not less than seven days before the day of the contest with 10 or more
9347 rounds:

9348 (i) proof of a negative HIV test performed not more than 180 days before the day of the
9349 contest for each contestant;

9350 (ii) a copy of each contestant's federal identification card;

9351 (iii) a copy of a signed contract between each contestant and the promoter for the
9352 contest;

9353 (iv) a statement specifying the maximum number of rounds of the contest;

9354 (v) a statement specifying the site, date, and time of weigh-in; and

9355 (vi) the name of the physician selected from among a list of registered and
9356 commission-approved ringside physicians who shall act as ringside physician for the contest.

9357 (b) Notwithstanding Subsection (4)(a), the commission may approve a contest or
9358 promotion if the requirements under Subsection (4)(a) are not met because of unforeseen

9359 circumstances beyond the promoter's control.

9360 (5) Final approval for a contest under 10 rounds in duration may be granted as
9361 determined by the commission after receiving the materials identified in Subsection (4) at a
9362 time determined by the commission.

9363 (6) An applicant shall post a surety bond or cashier's check with the commission in the
9364 greater of \$10,000 or the amount of the purse, providing for forfeiture and disbursement of the
9365 proceeds if the applicant fails to comply with:

9366 (a) the requirements of this chapter; or

9367 (b) rules made under this chapter relating to the promotion or conduct of the contest or
9368 promotion.

9369 Section 249. Section **63N-10-308**, which is renumbered from Section 63C-11-308 is
9370 renumbered and amended to read:

9371 ~~[63C-11-308]~~. **63N-10-308**. **Rules for the conduct of contests.**

9372 (1) The commission shall adopt rules in accordance with Title 63G, Chapter 3, Utah
9373 Administrative Rulemaking Act, for the conduct of contests in the state.

9374 (2) The rules shall include:

9375 (a) authority for:

9376 (i) stopping contests; and

9377 (ii) impounding purses with respect to contests when there is a question with respect to
9378 the contest, contestants, or any other licensee associated with the contest; and

9379 (b) reasonable and necessary provisions to ensure that all obligations of a promoter
9380 with respect to any promotion or contest are paid in accordance with agreements made by the
9381 promoter.

9382 (3) (a) The commission may, in its discretion, exempt a contest and each contestant
9383 from the definition of unprofessional conduct found in Subsection [~~63C-11-102~~]
9384 63N-10-102(25)(f) after:

9385 (i) a promoter requests the exemption; and

9386 (ii) the commission considers relevant factors, including:

9387 (A) the experience of the contestants;

9388 (B) the win and loss records of each contestant;

9389 (C) each contestant's level of training; and

9390 (D) any other evidence relevant to the contestants' professionalism and the ability to
9391 safely conduct the contest.

9392 (b) The commission's hearing of a request for an exemption under this Subsection (3)
9393 is an informal adjudicative proceeding under Section [63G-4-202](#).

9394 (c) The commission's decision to grant or deny a request for an exemption under this
9395 Subsection (3) is not subject to agency review under Section [63G-4-301](#).

9396 Section 250. Section **63N-10-309**, which is renumbered from Section 63C-11-309 is
9397 renumbered and amended to read:

9398 ~~**[63C-11-309]**~~. **63N-10-309**. **Medical examinations and drug tests.**

9399 (1) The commission shall adopt rules in accordance with Title 63G, Chapter 3, Utah
9400 Administrative Rulemaking Act, for medical examinations and drug testing of contestants,
9401 including provisions under which contestants shall:

9402 (a) produce evidence based upon competent laboratory examination that they are HIV
9403 negative as a condition of participating as a contestant in any contest;

9404 (b) be subject to random drug testing before or after participation in a contest, and
9405 sanctions, including barring participation in a contest or withholding a percentage of any purse,
9406 that shall be placed against a contestant testing positive for alcohol or any other drug that in the
9407 opinion of the commission is inconsistent with the safe and competent participation of that
9408 contestant in a contest;

9409 (c) be subject to a medical examination by the ringside physician not more than 30
9410 hours before the contest to identify any physical ailment or communicable disease that, in the
9411 opinion of the commission or designated commission member, are inconsistent with the safe
9412 and competent participation of that contestant in the contest; and

9413 (d) be subject to medical testing for communicable diseases as considered necessary by
9414 the commission to protect the health, safety, and welfare of the licensees and the public.

9415 (2) (a) Medical information concerning a contestant shall be provided by the contestant
9416 or medical professional or laboratory.

9417 (b) A promoter or manager may not provide to or receive from the commission medical
9418 information concerning a contestant.

9419 Section 251. Section **63N-10-310**, which is renumbered from Section 63C-11-310 is
9420 renumbered and amended to read:

9421 ~~[63C-11-310]~~. 63N-10-310. Contests.

9422 (1) Except as provided in Section ~~63C-11-317~~, a licensee may not participate in an
9423 unarmed combat contest within a predetermined time after another unarmed combat contest, as
9424 prescribed in rules made by the commission.

9425 (2) During the period of time beginning 60 minutes before the beginning of a contest,
9426 the promoter shall demonstrate the promoter's compliance with the commission's security
9427 requirements to all commission members present at the contest.

9428 (3) The commission shall establish fees in accordance with Section ~~63J-1-504~~ to be
9429 paid by a promoter for the conduct of each contest or event composed of multiple contests
9430 conducted under this chapter.

9431 Section 252. Section ~~63N-10-311~~, which is renumbered from Section 63C-11-311 is
9432 renumbered and amended to read:

9433 ~~[63C-11-311]~~. 63N-10-311. Ringside physician.

9434 (1) The commission shall maintain a list of ringside physicians who hold a Doctor of
9435 Medicine (MD) degree and are registered with the commission as approved to act as a ringside
9436 physician and meet the requirements of Subsection (2).

9437 (2) (a) The commission shall appoint a registered ringside physician to perform the
9438 duties of a ringside physician at each contest held [~~pursuant to~~] under this chapter.

9439 (b) The promoter of a contest shall pay a fee determined by the commission by rule to
9440 the commission for a ringside physician.

9441 (3) An applicant for registration as a ringside physician shall:

9442 (a) submit an application for registration;

9443 (b) provide the commission with evidence of the applicant's licensure to practice
9444 medicine in the state; and

9445 (c) satisfy minimum qualifications established by the department by rule.

9446 (4) A ringside physician at attendance at a contest:

9447 (a) may stop the contest at any point if the ringside physician determines that a
9448 contestant's physical condition renders the contestant unable to safely continue the contest; and

9449 (b) works under the direction of the commission.

9450 Section 253. Section ~~63N-10-312~~, which is renumbered from Section 63C-11-312 is
9451 renumbered and amended to read:

9452 ~~[63C-11-312]~~. 63N-10-312. Contracts.

9453 Before a contest is held, a copy of the signed contract or agreement between the
9454 promoter of the contest and each contestant shall be filed with the commission. Approval of
9455 the contract's terms and conditions shall be obtained from the commission as a condition
9456 precedent to the contest.

9457 Section 254. Section **63N-10-313**, which is renumbered from Section 63C-11-313 is
9458 renumbered and amended to read:

9459 ~~[63C-11-313]~~. 63N-10-313. Withholding of purse.

9460 (1) The commission, the director, or any other agent authorized by the commission
9461 may order a promoter to withhold any part of a purse or other money belonging or payable to
9462 any contestant, manager, or second if, in the judgment of the commission, director, or other
9463 agent:

9464 (a) the contestant is not competing honestly or to the best of the contestant's skill and
9465 ability or the contestant otherwise violates any rules adopted by the commission or any of the
9466 provisions of this chapter; or

9467 (b) the manager or second violates any rules adopted by the commission or any of the
9468 provisions of this chapter.

9469 (2) This section does not apply to any contestant in a wrestling exhibition who appears
9470 not to be competing honestly or to the best of the contestant's skill and ability.

9471 (3) Upon the withholding of any part of a purse or other money pursuant to this section,
9472 the commission shall immediately schedule a hearing on the matter, provide adequate notice to
9473 all interested parties, and dispose of the matter as promptly as possible.

9474 (4) If it is determined that a contestant, manager, or second is not entitled to any part of
9475 that person's share of the purse or other money, the promoter shall pay the money over to the
9476 commission.

9477 Section 255. Section **63N-10-314**, which is renumbered from Section 63C-11-314 is
9478 renumbered and amended to read:

9479 ~~[63C-11-314]~~. 63N-10-314. Penalty for unlawful conduct.

9480 A person who engages in any act of unlawful conduct, as defined in Section
9481 ~~[63C-11-102]~~ 63N-10-102, is guilty of a class A misdemeanor.

9482 Section 256. Section **63N-10-315**, which is renumbered from Section 63C-11-315 is

9483 renumbered and amended to read:

9484 ~~[63C-11-315]~~. 63N-10-315. Exemptions.

9485 This chapter does not apply to:

9486 (1) any amateur contest or exhibition of unarmed combat conducted by or participated
9487 in exclusively by:

9488 (a) a school accredited by the Utah Board of Education;

9489 (b) a college or university accredited by the United States Department of Education; or

9490 (c) any association or organization of a school, college, or university described in

9491 Subsections (1)(a) and (b), when each participant in the contests or exhibitions is a bona fide
9492 student in the school, college, or university;

9493 (2) any contest or exhibition of unarmed combat conducted in accordance with the
9494 standards and regulations of USA Boxing, Inc.; or

9495 (3) a white-collar contest.

9496 Section 257. Section 63N-10-316, which is renumbered from Section 63C-11-316 is
9497 renumbered and amended to read:

9498 ~~[63C-11-316]~~. 63N-10-316. Contest weights and classes -- Matching
9499 contestants.

9500 (1) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah
9501 Administrative Rulemaking Act, establishing boxing contest weights and classes consistent
9502 with those adopted by the Association of Boxing Commissions.

9503 (2) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah
9504 Administrative Rulemaking Act, establishing contest weights and classes for unarmed combat
9505 that is not boxing.

9506 (3) (a) As to any unarmed combat contest, a contestant may not fight another contestant
9507 who is outside of the contestant's weight classification.

9508 (b) Notwithstanding Subsection (3)(a), the commission may permit a contestant to
9509 fight another contestant who is outside of the contestant's weight classification.

9510 (4) Except as provided in Subsection (3)(b), as to any unarmed combat contest:

9511 (a) a contestant who has contracted to participate in a given weight class may not be
9512 permitted to compete if the contestant is not within that weight class at the weigh-in; and

9513 (b) a contestant may have two hours to attempt to gain or lose not more than three

9514 pounds in order to be reweighed.

9515 (5) (a) As to any unarmed combat contest, the commission may not allow a contest in
9516 which the contestants are not fairly matched.

9517 (b) Factors in determining if contestants are fairly matched include:

9518 (i) the win-loss record of the contestants;

9519 (ii) the weight differential between the contestants;

9520 (iii) the caliber of opponents for each contestant;

9521 (iv) each contestant's number of fights; and

9522 (v) previous suspensions or disciplinary actions of the contestants.

9523 Section 258. Section **63N-10-317**, which is renumbered from Section 63C-11-317 is
9524 renumbered and amended to read:

9525 ~~**[63C-11-317].**~~ **63N-10-317. Elimination contests -- Conduct of contests --**
9526 **Applicability of provisions -- Limitations on license -- Duration of contests -- Equipment**
9527 **-- Limitations on contests.**

9528 (1) An elimination unarmed combat contest shall be conducted under the supervision
9529 and authority of the commission.

9530 (2) Except as otherwise provided in this section and except as otherwise provided by
9531 specific statute, the provisions of this chapter pertaining to boxing apply to an elimination
9532 unarmed combat contest.

9533 (3) (a) All contests in an elimination unarmed combat contest shall be no more than
9534 three rounds in duration.

9535 (b) A round of unarmed combat in an elimination unarmed combat contest shall:

9536 (i) be no more than one minute in duration; or

9537 (ii) be up to three minutes in duration if there is only a single round.

9538 (c) A period of rest following a round shall be no more than one minute in duration.

9539 (4) A contestant:

9540 (a) shall wear gloves approved by the commission; and

9541 (b) shall wear headgear approved by the commission, the designated commission
9542 member, or the director if a designated commission member is not present.

9543 (5) A contestant may participate in more than one contest, but may not participate in
9544 more than a total of seven rounds in the entire tournament.

9545 Section 259. Section **63N-10-318**, which is renumbered from Section 63C-11-318 is
 9546 renumbered and amended to read:

9547 ~~[63C-11-318]~~. **63N-10-318. Commission rulemaking.**

9548 The commission may make rules governing the conduct of a contest held under this
 9549 chapter to protect the health and safety of licensees and members of the public.

9550 Section 260. Section **63N-11-101**, which is renumbered from Section 63M-1-2501 is
 9551 renumbered and amended to read:

9552 **CHAPTER 11. HEALTH SYSTEM REFORM ACT**

9553 ~~[63M-1-2501]~~. **63N-11-101. Title.**

9554 This ~~[part]~~ chapter is known as the "Health System Reform Act."

9555 Section 261. Section **63N-11-102**, which is renumbered from Section 63M-1-2502 is
 9556 renumbered and amended to read:

9557 ~~[63M-1-2502]~~. **63N-11-102. Definitions.**

9558 As used in this part, ~~["office"]~~ "consumer health office" means the Office of Consumer
 9559 Health Services created in Section ~~[63M-1-2504]~~ 63N-11-104.

9560 Section 262. Section **63N-11-103**, which is renumbered from Section 63M-1-2503 is
 9561 renumbered and amended to read:

9562 ~~[63M-1-2503]~~. **63N-11-103. Duties related to health system reform.**

9563 The Governor's Office of Economic Development shall coordinate the efforts of the
 9564 Office of Consumer Health Services, the Department of Health, the Insurance Department, and
 9565 the Department of Workforce Services to assist the Legislature with developing the state's
 9566 strategic plan for health system reform described in Section ~~[63M-1-2505]~~ 63N-11-105.

9567 Section 263. Section **63N-11-104**, which is renumbered from Section 63M-1-2504 is
 9568 renumbered and amended to read:

9569 ~~[63M-1-2504]~~. **63N-11-104. Creation of Office of Consumer Health Services**
 9570 **-- Duties.**

9571 (1) There is created within the Governor's Office of Economic Development the Office
 9572 of Consumer Health Services.

9573 (2) The consumer health office shall:

9574 (a) in cooperation with the Insurance Department, the Department of Health, and the
 9575 Department of Workforce Services, and in accordance with the electronic standards developed

9576 under Sections [31A-22-635](#) and [~~63M-1-2506~~] [63N-11-107](#), create a Health Insurance
9577 Exchange that:

9578 (i) provides information to consumers about private and public health programs for
9579 which the consumer may qualify;

9580 (ii) provides a consumer comparison of and enrollment in a health benefit plan posted
9581 on the Health Insurance Exchange; and

9582 (iii) includes information and a link to enrollment in premium assistance programs and
9583 other government assistance programs;

9584 (b) contract with one or more private vendors for:

9585 (i) administration of the enrollment process on the Health Insurance Exchange,
9586 including establishing a mechanism for consumers to compare health benefit plan features on
9587 the exchange and filter the plans based on consumer preferences;

9588 (ii) the collection of health insurance premium payments made for a single policy by
9589 multiple payers, including the policyholder, one or more employers of one or more individuals
9590 covered by the policy, government programs, and others; and

9591 (iii) establishing a call center in accordance with Subsection (4);

9592 (c) assist employers with a free or low cost method for establishing mechanisms for the
9593 purchase of health insurance by employees using pre-tax dollars;

9594 (d) establish a list on the Health Insurance Exchange of insurance producers who, in
9595 accordance with Section [31A-30-209](#), are appointed producers for the Health Insurance
9596 Exchange;

9597 (e) include in the annual written report described in Section [~~63M-1-206~~] [63N-1-301](#), a
9598 report on the operations of the Health Insurance Exchange required by this chapter; and

9599 (f) in accordance with Subsection (3), provide a form to a small employer that certifies:

9600 (i) that the small employer offered a qualified health plan to the small employer's
9601 employees; and

9602 (ii) the period of time within the taxable year in which the small employer maintained
9603 the qualified health plan coverage.

9604 (3) The form required by Subsection (2)(f) shall be provided to a small employer if:

9605 (a) the small employer selected a qualified health plan on the small employer health
9606 exchange created by this section; or

9607 (b) (i) the small employer selected a health plan in the small employer market that is
9608 not offered through the exchange created by this section; and

9609 (ii) the issuer of the health plan selected by the small employer submits to the office, in
9610 a form and manner required by the office:

9611 (A) an affidavit from a member of the American Academy of Actuaries stating that
9612 based on generally accepted actuarial principles and methodologies the issuer's health plan
9613 meets the benefit and actuarial requirements for a qualified health plan under PPACA as
9614 defined in Section [31A-1-301](#); and

9615 (B) an affidavit from the issuer that includes the dates of coverage for the small
9616 employer during the taxable year.

9617 (4) A call center established by the consumer health office:

9618 (a) shall provide unbiased answers to questions concerning exchange operations, and
9619 plan information, to the extent the plan information is posted on the exchange by the insurer;
9620 and

9621 (b) may not:

9622 (i) sell, solicit, or negotiate a health benefit plan on the Health Insurance Exchange;

9623 (ii) receive producer compensation through the Health Insurance Exchange; and

9624 (iii) be designated as the default producer for an employer group that enters the Health
9625 Insurance Exchange without a producer.

9626 (5) The consumer health office:

9627 (a) may not:

9628 (i) regulate health insurers, health insurance plans, health insurance producers, or
9629 health insurance premiums charged in the exchange;

9630 (ii) adopt administrative rules, except as provided in Section [[63M-1-2506](#)]
9631 [63N-11-107](#); or

9632 (iii) act as an appeals entity for resolving disputes between a health insurer and an
9633 insured;

9634 (b) may establish and collect a fee for the cost of the exchange transaction in
9635 accordance with Section [63J-1-504](#) for:

9636 (i) processing an application for a health benefit plan;

9637 (ii) accepting, processing, and submitting multiple premium payment sources;

9638 (iii) providing a mechanism for consumers to filter and compare health benefit plans in
9639 the exchange based on consumer preferences; and

9640 (iv) funding the call center; and

9641 (c) shall separately itemize the fee established under Subsection (5)(b) as part of the
9642 cost displayed for the employer selecting coverage on the exchange.

9643 Section 264. Section **63N-11-105**, which is renumbered from Section 63M-1-2505 is
9644 renumbered and amended to read:

9645 **~~63M-1-2505~~. 63N-11-105. Strategic plan for health system reform.**

9646 The state's strategic plan for health system reform shall include consideration of the
9647 following:

9648 (1) legislation necessary to allow a health insurer in the state to offer one or more
9649 health benefit plans that:

9650 (a) allow an individual to purchase a policy for individual or family coverage, with or
9651 without employer contributions, and keep the policy even if the individual changes
9652 employment;

9653 (b) incorporate rating practices and issue practices that will sustain a viable insurance
9654 market and provide affordable health insurance products for the most purchasers;

9655 (c) are based on minimum required coverages that result in a lower premium than most
9656 current health insurance products;

9657 (d) include coverage for immunizations, screenings, and other preventive health
9658 services;

9659 (e) encourage cost-effective use of health care systems;

9660 (f) minimize risk-skimming insurance benefit designs;

9661 (g) maximize the use of federal and state income tax policies to allow for payment of
9662 health insurance products with tax-exempt funds;

9663 (h) may include other innovative provisions that may lower the costs of health
9664 insurance products;

9665 (i) may incorporate innovative consumer-driven provisions, including:

9666 (i) an exemption from selected state health insurance laws and regulations;

9667 (ii) a range of benefit and cost sharing provisions tailored to the health status, financial
9668 capacity, and preferences of individual consumers; and

- 9669 (iii) varying the amount of cost sharing for a service based on where the service falls
9670 along a continuum of care ranging from preventive care to purely elective care; and
- 9671 (j) encourage employers to allow their employees greater control of the employee's
9672 health care benefits by providing tax-exempt defined contributions for the purchase of health
9673 insurance by either the employer or the employee;
- 9674 (2) current rating and issue practices by health insurers and changes that may be
9675 necessary to achieve the goals of Subsection (1)(b);
- 9676 (3) methods to decrease cost shifting from the uninsured and under-insured to the
9677 insured, health care providers and taxpayers, including:
- 9678 (a) eligibility and benefit levels for entitlement programs;
9679 (b) reimbursement rates for entitlement programs; and
9680 (c) the Utah Premium Partnership for Health Insurance Program and the Children's
9681 Health Insurance Program's enrollment and benefit policies, and whether those policies provide
9682 appropriate and effective coverage for children;
- 9683 (4) providing public employees an option that gives them greater control of their health
9684 care benefits through a system of defined contributions for insurance policies;
- 9685 (5) giving public employees access to an option that provides individually selected and
9686 owned policies;
- 9687 (6) encouraging the use of health care quality measures and the adoption of best
9688 practice protocols by health care providers for the benefit of consumers, health care providers,
9689 and third party payers;
- 9690 (7) providing some protection from liability for health care providers who follow best
9691 practice protocols;
- 9692 (8) promoting personal responsibility through:
- 9693 (a) obtaining health insurance;
9694 (b) achieving self reliance;
9695 (c) making healthy choices; and
9696 (d) encouraging healthy behaviors and lifestyles to the full extent allowed by the
9697 Health Insurance Portability and Accountability Act;
- 9698 (9) studying the costs and benefits associated with:
- 9699 (a) different forms of mandates for individual responsibility; and

- 9700 (b) potential enforcement mechanisms for individual responsibility;
- 9701 (10) (a) increasing the number of affordable health insurance policies available to a
- 9702 person responsible for obtaining health insurance under Subsection (8)(a) by creating a system
- 9703 of subsidies and Medicaid waivers that bring more people into the private insurance market;
- 9704 and
- 9705 (b) funding subsidies to support bringing more people into the private insurance
- 9706 market, which may include:
- 9707 (i) imposing assessments on:
- 9708 (A) health care facilities;
- 9709 (B) health care providers;
- 9710 (C) health care services; and
- 9711 (D) health insurance products; or
- 9712 (ii) relying on other funding sources;
- 9713 (11) investigating and applying for Medicaid waivers that will promote the use of
- 9714 private sector health insurance;
- 9715 (12) identifying federal barriers to state health system reform and seeking collaborative
- 9716 solutions to those barriers;
- 9717 (13) maximizing the use of pre-tax dollars for health insurance premium payments;
- 9718 (14) requiring employers in the state to adopt mechanisms that allow an employee to
- 9719 use tax-exempt earnings, other than pre-tax contributions by the employer, to purchase a health
- 9720 insurance product;
- 9721 (15) extending a preference under the state procurement code for bidders who offer
- 9722 goods or services to the state if the bidder provides health insurance benefits or a defined
- 9723 contribution for health insurance to the bidder's employees; and
- 9724 (16) requiring insurers to accept premium payments from multiple sources, including
- 9725 state-funded subsidies.

9726 Section 265. Section **63N-11-106**, which is renumbered from Section 63M-1-2505.5 is

9727 renumbered and amended to read:

9728 **[63M-1-2505.5]. 63N-11-106. Reporting on federal health reform --**

9729 **Prohibition of individual mandate.**

- 9730 (1) The Legislature finds that:

- 9731 (a) the state has embarked on a rigorous process of implementing a strategic plan for
9732 health system reform [~~pursuant to~~] under Section [~~63M-1-2505~~] 63N-11-105;
- 9733 (b) the health system reform efforts for the state were developed to address the unique
9734 circumstances within Utah and to provide solutions that work for Utah;
- 9735 (c) Utah is a leader in the nation for health system reform which includes:
9736 (i) developing and using health data to control costs and quality; and
9737 (ii) creating a defined contribution insurance market to increase options for employers
9738 and employees; and
- 9739 (d) the federal government proposals for health system reform:
9740 (i) infringe on state powers;
9741 (ii) impose a uniform solution to a problem that requires different responses in
9742 different states;
9743 (iii) threaten the progress Utah has made towards health system reform; and
9744 (iv) infringe on the rights of citizens of this state to provide for their own health care
9745 by:
- 9746 (A) requiring a person to enroll in a third party payment system;
9747 (B) imposing fines, penalties, and taxes on a person who chooses to pay directly for
9748 health care rather than use a third party payer;
- 9749 (C) imposing fines, penalties, and taxes on an employer that does not meet federal
9750 standards for providing health care benefits for employees; and
- 9751 (D) threatening private health care systems with competing government supported
9752 health care systems.
- 9753 (2) (a) For purposes of this section:
9754 (i) "Implementation" includes adopting or changing an administrative rule, applying for
9755 or spending federal grant money, issuing a request for proposal to carry out a requirement of
9756 PPACA, entering into a memorandum of understanding with the federal government regarding
9757 a provision of PPACA, or amending the state Medicaid plan.
9758 (ii) "PPACA" [~~is~~] has the same meaning as defined in Section 31A-1-301.
- 9759 (b) A department or agency of the state may not implement any part of PPACA unless,
9760 prior to implementation, the department or agency reports in writing, and, if practicable, in
9761 person if requested, to the Legislature's Business and Labor Interim Committee, the Health

9762 Reform Task Force, or the legislative Executive Appropriations Committee in accordance with
9763 Subsection (2)(d).

9764 (c) The Legislature may pass legislation specifically authorizing or prohibiting the
9765 state's compliance with, or participation in provisions of PPACA.

9766 (d) The report required under Subsection (2)(b) shall include:

9767 (i) the specific federal statute or regulation that requires the state to implement a
9768 provision of PPACA;

9769 (ii) whether PPACA has any state waiver or options;

9770 (iii) exactly what PPACA requires the state to do, and how it would be implemented;

9771 (iv) who in the state will be impacted by adopting the federal reform provision, or not
9772 adopting the federal reform provision;

9773 (v) what is the cost to the state or citizens of the state to implement the federal reform
9774 provision;

9775 (vi) the consequences to the state if the state does not comply with PPACA;

9776 (vii) the impact, if any, of the PPACA requirements regarding:

9777 (A) the state's protection of a health care provider's refusal to perform an abortion on
9778 religious or moral grounds as provided in Section [76-7-306](#); and

9779 (B) abortion insurance coverage restrictions provided in Section [31A-22-726](#).

9780 (3) (a) The state shall not require an individual in the state to obtain or maintain health
9781 insurance as defined in PPACA, regardless of whether the individual has or is eligible for
9782 health insurance coverage under any policy or program provided by or through the individual's
9783 employer or a plan sponsored by the state or federal government.

9784 (b) The provisions of this title may not be used to facilitate the federal PPACA
9785 individual mandate or to hold an individual in this state liable for any penalty, assessment, fee,
9786 or fine as a result of the individual's failure to procure or obtain health insurance coverage.

9787 (c) This section does not apply to an individual who voluntarily applies for coverage
9788 under a state administered program pursuant to Title XIX or Title XXI of the Social Security
9789 Act.

9790 Section 266. Section **63N-11-107**, which is renumbered from Section 63M-1-2506 is
9791 renumbered and amended to read:

9792 **[63M-1-2506]. 63N-11-107. Health benefit plan information on Health**

9793 **Insurance Exchange -- Insurer transparency.**

9794 (1) (a) The consumer health office shall adopt administrative rules in accordance with
9795 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish uniform electronic
9796 standards for insurers, employers, brokers, consumers, and vendors to use when transmitting or
9797 receiving information, uniform applications, waivers of coverage, or payments to, or from, the
9798 Health Insurance Exchange.

9799 (b) The administrative rules adopted by the consumer health office shall:

9800 (i) promote an efficient and consumer friendly process for shopping for and enrolling
9801 in a health benefit plan offered on the Health Insurance Exchange; and

9802 (ii) if appropriate, as determined by the consumer health office, comply with standards
9803 adopted at the national level.

9804 (2) The consumer health office shall assist the risk adjuster board created under Title
9805 31A, Chapter 42, Defined Contribution Risk Adjuster Act, and carriers participating in the
9806 defined contribution market on the Health Insurance Exchange with the determination of when
9807 an employer is eligible to participate in the Health Insurance Exchange under Title 31A,
9808 Chapter 30, Part 2, Defined Contribution Arrangements.

9809 (3) (a) The consumer health office shall create an advisory board to advise the
9810 exchange concerning the operation of the exchange, the consumer experience on the exchange,
9811 and transparency issues.

9812 (b) The advisory board shall have the following members:

9813 (i) two health producers who are appointed producers with the Health Insurance
9814 Exchange;

9815 (ii) two representatives from community-based, non-profit organizations;

9816 (iii) one representative from an employer that participates in the defined contribution
9817 market on the Health Insurance Exchange;

9818 (iv) up to four representatives from insurers who participate in the defined contribution
9819 market of the Health Insurance Exchange;

9820 (v) one representative from the Insurance Department; and

9821 (vi) one representative from the Department of Health.

9822 (c) Members of the advisory board shall serve without compensation.

9823 (4) The consumer health office shall post or facilitate the posting, on the Health

9824 Insurance Exchange, of the information required by this section and Section 31A-22-635 and
9825 links to websites that provide cost and quality information from the Department of Health Data
9826 Committee or neutral entities with a broad base of support from the provider and payer
9827 communities.

9828 Section 267. Section 63N-12-101, which is renumbered from Section 63M-1-601 is
9829 renumbered and amended to read:

9830 **CHAPTER 12. SCIENCE AND EDUCATION PROGRAMS**

9831 **Part 1. State Advisory Council on Science and Technology**

9832 **[63M-1-601]. 63N-12-101. Purpose.**

9833 (1) This chapter is known as "Science and Education Programs."

9834 (2) This part is known as the "State Advisory Council on Science and Technology."

9835 (3) The purpose of this part is to establish an advisory council on science and
9836 technology to assist in the development of programs, communication, and use of science and
9837 technology in governmental organizations in the state.

9838 Section 268. Section 63N-12-102, which is renumbered from Section 63M-1-602 is
9839 renumbered and amended to read:

9840 **[63M-1-602]. 63N-12-102. Definition of terms.**

9841 As used in this part:

9842 (1) "Adviser" means the state science adviser appointed under this part.

9843 (2) "Council" means the State Advisory Council on Science and Technology created
9844 under this part.

9845 [~~(3) "Director" means the governor's director for economic development.]~~

9846 Section 269. Section 63N-12-103, which is renumbered from Section 63M-1-603 is
9847 renumbered and amended to read:

9848 **[63M-1-603]. 63N-12-103. Creation.**

9849 There is created the State Advisory Council on Science and Technology within the
9850 Governor's Office of Economic Development, which shall perform the functions and duties
9851 provided in this part.

9852 Section 270. Section 63N-12-104, which is renumbered from Section 63M-1-604 is
9853 renumbered and amended to read:

9854 **[63M-1-604]. 63N-12-104. Members -- Appointment -- Terms --**

9855 **Qualifications -- Vacancies -- Chair and vice chair -- Executive secretary -- Executive**
9856 **committee -- Quorum -- Expenses.**

9857 (1) The council comprises the following nonvoting members or their designees:

9858 (a) the adviser;

9859 (b) the executive director of the Department of Natural Resources;

9860 (c) the executive director of the Department of Heritage and Arts;

9861 (d) the executive director of the Department of Health;

9862 (e) the executive director of the Department of Environmental Quality;

9863 (f) the commissioner of agriculture and food;

9864 (g) the commissioner of higher education;

9865 (h) the state planning coordinator; and

9866 (i) the executive director of the Department of Transportation.

9867 (2) The governor may appoint other voting members, not to exceed 12.

9868 (3) (a) Except as required by Subsection (3)(b), as terms of current council members
9869 expire, the governor shall appoint each new member or reappointed member to a four-year
9870 term.

9871 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
9872 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
9873 council members are staggered so that approximately half of the council is appointed every two
9874 years.

9875 (4) The governor shall consider all institutions of higher education in the state in the
9876 appointment of council members.

9877 (5) The voting members of the council shall be experienced or knowledgeable in the
9878 application of science and technology to business, industry, or public problems and have
9879 demonstrated their interest in and ability to contribute to the accomplishment of the purposes of
9880 this part.

9881 (6) When a vacancy occurs in the membership for any reason, the replacement shall be
9882 appointed for the unexpired term.

9883 (7) (a) Each year the council shall select from its membership a chair and a vice chair.

9884 (b) The chair and vice chair shall hold office for one year or until a successor is
9885 appointed and qualified.

9886 (8) The adviser serves as executive secretary of the council.

9887 (9) An executive committee shall be established consisting of the chair, vice chair, and
9888 the adviser.

9889 (10) (a) In order to conduct business matters of the council at regularly convened
9890 meetings, a quorum consisting of a simple majority of the total voting membership of the
9891 council is required.

9892 (b) All matters of business affecting public policy require not less than a simple
9893 majority of affirmative votes of the total membership.

9894 (11) A member may not receive compensation or benefits for the member's service, but
9895 may receive per diem and travel expenses in accordance with:

9896 (a) Section 63A-3-106;

9897 (b) Section 63A-3-107; and

9898 (c) rules made by the Division of Finance [~~pursuant to~~] under Sections 63A-3-106 and
9899 63A-3-107.

9900 Section 271. Section 63N-12-105, which is renumbered from Section 63M-1-605 is
9901 renumbered and amended to read:

9902 ~~[63M-1-605].~~ **63N-12-105. Duties and powers.**

9903 (1) The council shall:

9904 (a) encourage the use of science and technology in the administration of state and local
9905 government;

9906 (b) develop programs whereby state agencies and the several public and private
9907 institutions of higher education and technical colleges within the state may assist business and
9908 industry in the utilization of science and technology;

9909 (c) further communication between agencies of federal, state, and local government
9910 who wish to utilize science and technology;

9911 (d) develop programs of cooperation on matters of science and technology between:

9912 (i) state and local government agencies;

9913 (ii) the several public and private institutions of higher education and technical
9914 colleges within the state; and

9915 (iii) business and industry within the state; or

9916 (iv) any combination of these;

9917 (e) provide a means whereby government, business, industry, and higher education
9918 may be represented in the formulation and implementation of state policies and programs on
9919 matters of science and technology;

9920 (f) review, catalog, and compile the research and development uses by the state
9921 universities of the revenue derived from mineral lease funds on state and federal lands;

9922 (g) submit an annual report to the office regarding the expenditure and utilization of
9923 these mineral lease funds for inclusion in the office's annual written report described in Section
9924 [~~63M-1-206~~] [63N-1-301](#);

9925 (h) make recommendations to the Legislature on the further uses of these mineral lease
9926 funds in order to stimulate research and development directed toward the more effective
9927 utilization of the state's natural resources; and

9928 (i) prepare and submit, before November 1, an annual written report to the governor
9929 and the Legislature.

9930 (2) The council may:

9931 (a) in accordance with Title 63J, Chapter 5, Federal Funds Procedures Act, apply for,
9932 receive, and disburse funds, contributions, or grants from whatever source for the purposes set
9933 forth in this part;

9934 (b) employ, compensate, and prescribe the duties and powers of those individuals,
9935 subject to the provisions of this part relating to the adviser, necessary to execute the duties and
9936 powers of the council; and

9937 (c) enter into contracts for the purposes of this part.

9938 Section 272. Section **63N-12-106**, which is renumbered from Section 63M-1-606 is
9939 renumbered and amended to read:

9940 ~~[63M-1-606]~~. **63N-12-106. Adviser -- Duties and powers.**

9941 (1) The adviser shall be appointed by the governor.

9942 (2) The adviser shall be experienced or knowledgeable in the application of science
9943 and technology to business, industry, or public problems and shall have demonstrated interest
9944 in or ability to contribute to the accomplishment of the purposes of this part.

9945 (3) The adviser shall be compensated pursuant to the wage and salary classification
9946 plan for appointed officers of the state currently in effect.

9947 (4) (a) The adviser shall have those duties and powers the council assigns.

9948 (b) The adviser, with the advice of the council, may enter into contracts and
9949 agreements and may incur expenses necessary to fulfill the purposes of this part.

9950 (5) The adviser shall be administratively responsible to the executive director of the
9951 office.

9952 Section 273. Section **63N-12-107**, which is renumbered from Section 63M-1-607 is
9953 renumbered and amended to read:

9954 **[63M-1-607]. 63N-12-107. Request for information.**

9955 All departments, divisions, boards, commissions, agencies, institutions, and all other
9956 instrumentalities of the state shall, upon request of the council, provide the council with any
9957 information that these instrumentalities have concerning research in science and technology.

9958 Section 274. Section **63N-12-108**, which is renumbered from Section 63M-1-608 is
9959 renumbered and amended to read:

9960 **[63M-1-608]. 63N-12-108. Science education program.**

9961 (1) (a) There is established an informal science and technology education program
9962 within the [~~Governor's Office of Economic Development~~] office.

9963 (b) The state science advisor shall act as the [~~executive~~] director of the program.

9964 (c) The State Advisory Council on Science and Technology shall advise the program,
9965 including:

9966 (i) approving all money expended by the science and technology education program;

9967 (ii) approving all operations of the program; and

9968 (iii) making policies and procedures to govern the program.

9969 (2) The program may:

9970 (a) provide informal science and technology-based education to elementary and
9971 secondary students;

9972 (b) expose public education students to college level science and technology
9973 disciplines; and

9974 (c) provide other informal promotion of science and technology education in the state.

9975 Section 275. Section **63N-12-201** is enacted to read:

9976 **Part 2. STEM Action Center**

9977 **63N-12-201. Title.**

9978 This part is known as the "STEM Action Center."

9979 Section 276. Section **63N-12-202**, which is renumbered from Section 63M-1-3201 is
 9980 renumbered and amended to read:

9981 ~~[63M-1-3201]~~. **63N-12-202. Definitions.**

9982 As used in this part:

9983 (1) "Board" means the STEM Action Center Board created in Section [~~63M-1-3202~~]
 9984 63N-12-203.

9985 (2) "Educator" has the same meaning as defined in Section ~~53A-6-103~~.

9986 (3) "High quality professional development" means professional development that
 9987 meets high quality standards developed by the State Board of Education.

9988 (4) "Office" means the Governor's Office of Economic Development.

9989 (5) "Provider" means a provider, selected by staff of the board and staff of the Utah
 9990 State Board of Education, on behalf of the board:

9991 (a) through a request for proposals process; or

9992 (b) through a direct award or sole source procurement process for a pilot described in
 9993 Section [~~63M-1-3205~~] 63N-12-206.

9994 (6) "STEM" means science, technology, engineering, and mathematics.

9995 (7) "STEM Action Center" means the center described in Section [~~63M-1-3204~~]
 9996 63N-12-205.

9997 Section 277. Section **63N-12-203**, which is renumbered from Section 63M-1-3202 is
 9998 renumbered and amended to read:

9999 ~~[63M-1-3202]~~. **63N-12-203. STEM Action Center Board creation --**

10000 **Membership.**

10001 (1) There is created the STEM Action Center Board within the office, composed of the
 10002 following members:

10003 (a) six private sector members who represent business, appointed by the governor;

10004 (b) the state superintendent of public instruction or the state superintendent of public
 10005 instruction's designee;

10006 (c) the commissioner of higher education or the commissioner of higher education's
 10007 designee;

10008 (d) one member appointed by the governor;

10009 (e) a member of the State Board of Education, chosen by the chair of the State Board of

10010 Education;

10011 (f) the executive director of the [~~Governor's Office of Economic Development~~] office
10012 or the executive [~~director of the Governor's Office of Economic Development's~~] director's
10013 designee;

10014 (g) the president of the Utah College of Applied Technology or the president of the
10015 Utah College of Applied Technology's designee; and

10016 (h) one member who has a degree in engineering and experience working in a
10017 government military installation, appointed by the governor.

10018 (2) (a) The private sector members appointed by the governor in Subsection (1)(a) shall
10019 represent a business or trade association whose primary focus is science, technology, or
10020 engineering.

10021 (b) Except as required by Subsection (2)(c), members appointed by the governor shall
10022 be appointed to four-year terms.

10023 (c) The length of terms of the members shall be staggered so that approximately half of
10024 the committee is appointed every two years.

10025 (d) The members may not serve more than two full consecutive terms except where the
10026 governor determines that an additional term is in the best interest of the state.

10027 (e) When a vacancy occurs in the membership for any reason, the replacement shall be
10028 appointed for the unexpired term.

10029 (3) Attendance of a simple majority of the members constitutes a quorum for the
10030 transaction of official committee business.

10031 (4) Formal action by the committee requires a majority vote of a quorum.

10032 (5) A member may not receive compensation or benefits for the member's service, but
10033 may receive per diem and travel expenses in accordance with:

10034 (a) Section [63A-3-106](#);

10035 (b) Section [63A-3-107](#); and

10036 (c) rules made by the Division of Finance [~~pursuant to~~] under Sections [63A-3-106](#) and
10037 [63A-3-107](#).

10038 (6) The governor shall select the chair of the board to serve a one-year term.

10039 (7) The executive director of the [~~Governor's Office of Economic Development~~] office
10040 or the executive [~~director of the Governor's Office of Economic Development's~~] director's

10041 designee shall serve as the vice chair of the board.

10042 Section 278. Section **63N-12-204**, which is renumbered from Section 63M-1-3203 is
10043 renumbered and amended to read:

10044 ~~[63M-1-3203]~~. **63N-12-204. STEM Action Center Board -- Duties.**

10045 (1) The board shall:

10046 (a) establish a STEM Action Center to:

10047 (i) coordinate STEM activities in the state among the following stakeholders:

10048 (A) the State Board of Education;

10049 (B) school districts and charter schools;

10050 (C) the State Board of Regents;

10051 (D) institutions of higher education;

10052 (E) parents of home-schooled students; and

10053 (F) other state agencies;

10054 (ii) align public education STEM activities with higher education STEM activities; and

10055 (iii) create and coordinate best practices among public education and higher education;

10056 (b) with the consent of the Senate, appoint ~~[an executive]~~ a director to oversee the

10057 administration of the STEM Action Center;

10058 (c) select a physical location for the STEM Action Center;

10059 (d) strategically engage industry and business entities to cooperate with the board:

10060 (i) to support high quality professional development and provide other assistance for

10061 educators and students; and

10062 (ii) to provide private funding and support for the STEM Action Center;

10063 (e) give direction to the STEM Action Center and the providers selected through a

10064 request for proposals process pursuant to this part; and

10065 (f) work to meet the following expectations:

10066 (i) that at least 50 educators are implementing best practice learning tools in

10067 classrooms per each product specialist or manager working with the STEM Action Center;

10068 (ii) performance change in student achievement in each classroom working with a

10069 STEM Action Center product specialist or manager; and

10070 (iii) that students from at least 50 high schools participate in the STEM competitions,

10071 fairs, and camps described in Subsection ~~[63M-1-3204]~~ 63N-12-205(2)(d).

- 10072 (2) The board may:
- 10073 (a) enter into contracts for the purposes of this part;
- 10074 (b) apply for, receive, and disburse funds, contributions, or grants from any source for
- 10075 the purposes set forth in this part;
- 10076 (c) employ, compensate, and prescribe the duties and powers of individuals necessary
- 10077 to execute the duties and powers of the board;
- 10078 (d) prescribe the duties and powers of the STEM Action Center providers; and
- 10079 (e) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 10080 make rules to administer this part.
- 10081 (3) The board may establish a foundation to assist in:
- 10082 (a) the development and implementation of the programs authorized under this part to
- 10083 promote STEM education; and
- 10084 (b) implementation of other STEM education objectives described in this part.
- 10085 (4) A foundation established by the board under Subsection (3):
- 10086 (a) may solicit and receive contributions from a private organization for STEM
- 10087 education objectives described in this part;
- 10088 (b) shall comply with Title 51, Chapter 7, State Money Management Act;
- 10089 (c) does not have power or authority to incur contractual obligations or liabilities that
- 10090 constitute a claim against public funds;
- 10091 (d) may not exercise executive or administrative authority over the programs or other
- 10092 activities described in this part, except to the extent specifically authorized by the board;
- 10093 (e) shall provide the board with information detailing transactions and balances of
- 10094 funds managed for the board; and
- 10095 (f) may not:
- 10096 (i) engage in lobbying activities;
- 10097 (ii) attempt to influence legislation; or
- 10098 (iii) participate in any campaign activity for or against:
- 10099 (A) a political candidate; or
- 10100 (B) an initiative, referendum, proposed constitutional amendment, bond, or any other
- 10101 ballot proposition submitted to the voters.
- 10102 (5) Money donated to a foundation established under Subsection (3) may be accounted

10103 for in an expendable special revenue fund.

10104 Section 279. Section **63N-12-205**, which is renumbered from Section 63M-1-3204 is
10105 renumbered and amended to read:

10106 ~~[63M-1-3204]~~. **63N-12-205. STEM Action Center.**

10107 (1) As funding allows, the board shall:

10108 (a) establish a STEM Action Center;

10109 (b) ensure that the STEM Action Center:

10110 (i) is accessible by the public; and

10111 (ii) includes the components described in Subsection (2);

10112 (c) work cooperatively with the State Board of Education to:

10113 (i) further STEM education; and

10114 (ii) ensure best practices are implemented as described in Sections [63M-1-3205]

10115 63N-12-206 and [63M-1-3206] 63N-12-207; and

10116 (d) engage private entities to provide financial support or employee time for STEM
10117 activities in schools in addition to what is currently provided by private entities.

10118 (2) As funding allows, the [executive] director of the STEM Action Center shall:

10119 (a) support high quality professional development for educators regarding STEM
10120 education;

10121 (b) ensure that the STEM Action Center acts as a research and development center for
10122 STEM education through a request for proposals process described in Section [63M-1-3205]

10123 63N-12-206;

10124 (c) review and acquire STEM education related materials and products for:

10125 (i) high quality professional development;

10126 (ii) assessment, data collection, analysis, and reporting; and

10127 (iii) public school instruction;

10128 (d) facilitate participation in interscholastic STEM related competitions, fairs, camps,
10129 and STEM education activities;

10130 (e) engage private industry in the development and maintenance of the STEM Action
10131 Center and STEM Action Center projects;

10132 (f) use resources to bring the latest STEM education learning tools into public
10133 education classrooms;

- 10134 (g) identify at least 10 best practice innovations used in Utah that have resulted in at
10135 least 80% of students performing at grade level in STEM areas;
- 10136 (h) identify best practices being used outside the state and, as appropriate, develop and
10137 implement selected practices through a pilot program;
- 10138 (i) identify:
 - 10139 (i) learning tools for kindergarten through grade 6 identified as best practices; and
 - 10140 (ii) learning tools for grades 7 through 12 identified as best practices;
- 10141 (j) provide a Utah best practices database, including best practices from public
10142 education, higher education, the Utah Education and Telehealth Network, and other STEM
10143 related entities;
- 10144 (k) keep track of the following items related to the best practices database described in
10145 Subsection (2)(j):
 - 10146 (i) how the best practices database is being used; and
 - 10147 (ii) how many individuals are using the database, including the demographics of the
10148 users, if available;
 - 10149 (l) as appropriate, join and participate in a national STEM network;
- 10150 (m) identify performance changes linked to use of the best practices database described
10151 in Subsection (2)(j);
- 10152 (n) work cooperatively with the State Board of Education to designate schools as
10153 STEM schools, where the schools have agreed to adopt a plan of STEM implementation in
10154 alignment with criteria set by the State Board of Education and the board;
- 10155 (o) support best methods of high quality professional development for STEM
10156 education in kindergarten through grade 12, including methods of high quality professional
10157 development that reduce cost and increase effectiveness, to help educators learn how to most
10158 effectively implement best practice learning tools in classrooms;
- 10159 (p) recognize a high school's achievement in the STEM competitions, fairs, and camps
10160 described in Subsection (2)(d);
- 10161 (q) send student results from STEM competitions, fairs, and camps described in
10162 Subsection (2)(d) to media and ask the media to report on them;
- 10163 (r) develop and distribute STEM information to parents of students being served by the
10164 STEM Action Center;

10165 (s) support targeted high quality professional development for improved instruction in
10166 STEM education, including:

10167 (i) improved instructional materials that are dynamic and engaging for students;

10168 (ii) use of applied instruction; and

10169 (iii) introduction of other research-based methods that support student achievement in
10170 STEM areas; and

10171 (t) ensure that an online college readiness assessment tool be accessible by:

10172 (i) public education students; and

10173 (ii) higher education students.

10174 (3) The board may prescribe other duties for the STEM Action Center in addition to
10175 the responsibilities described in this section.

10176 (4) (a) The [~~executive~~] director shall track and compare the student performance of
10177 students participating in a STEM Action Center program to all other similarly situated students
10178 in the state, in the following STEM related activities, at the beginning and end of each year:

10179 (i) public education high school graduation rates;

10180 (ii) the number of students taking a remedial mathematics course at an institution of
10181 higher education described in Section [53B-2-101](#);

10182 (iii) the number of students who graduate from a Utah public school and begin a
10183 postsecondary education program; and

10184 (iv) the number of students, as compared to all similarly situated students, who are
10185 performing at grade level in STEM classes.

10186 (b) The State Board of Education and the State Board of Regents shall provide
10187 information to the board to assist the board in complying with the requirements of Subsection
10188 (4)(a) if allowed under federal law.

10189 Section 280. Section **63N-12-206**, which is renumbered from Section 63M-1-3205 is
10190 renumbered and amended to read:

10191 ~~[63M-1-3205]~~. **63N-12-206. Acquisition of STEM education related**
10192 **instructional technology program -- Research and development of education related**
10193 **instructional technology through a pilot program.**

10194 (1) For purposes of this section:

10195 (a) "Pilot" means a pilot of the program.

10196 (b) "Program" means the STEM education related instructional technology program
10197 created in Subsection (2).

10198 (2) (a) There is created the STEM education related instructional technology program
10199 to provide public schools the STEM education related instructional technology described in
10200 Subsection (3).

10201 (b) On behalf of the board, the staff of the board and the staff of the State Board of
10202 Education shall collaborate and may select one or more providers, through a request for
10203 proposals process, to provide STEM education related instructional technology to school
10204 districts and charter schools.

10205 (c) On behalf of the board, the staff of the board and the staff of the State Board of
10206 Education shall consider and may accept an offer from a provider in response to the request for
10207 proposals described in Subsection (2)(b) even if the provider did not participate in a pilot
10208 described in Subsection (5).

10209 (3) The STEM education related instructional technology shall:

10210 (a) support mathematics instruction for students in:

10211 (i) kindergarten through grade 6; or

10212 (ii) grades 7 and 8; or

10213 (b) support mathematics instruction for secondary students to prepare the secondary
10214 students for college mathematics courses.

10215 (4) In selecting a provider for STEM education related instructional technology to
10216 support mathematics instruction for the students described in Subsection (3)(a), the board shall
10217 consider the following criteria:

10218 (a) the technology contains individualized instructional support for skills and
10219 understanding of the core standards in mathematics;

10220 (b) the technology is self-adapting to respond to the needs and progress of the learner;
10221 and

10222 (c) the technology provides opportunities for frequent, quick, and informal assessments
10223 and includes an embedded progress monitoring tool and mechanisms for regular feedback to
10224 students and teachers.

10225 (5) Before issuing a request for proposals described in Subsection (2), on behalf of the
10226 board, the staff of the board and the staff of the State Board of Education shall collaborate and

10227 may:

- 10228 (a) conduct a pilot of the program to test and select providers for the program;
- 10229 (b) select at least two providers through a direct award or sole source procurement
- 10230 process for the purpose of conducting the pilot; and
- 10231 (c) select schools to participate in the pilot.
- 10232 (6) (a) A contract with a provider for STEM education related instructional technology
- 10233 may include professional development for full deployment of the STEM education related
- 10234 instructional technology.
- 10235 (b) No more than 10% of the money appropriated for the program may be used to
- 10236 provide professional development related to STEM education related instructional technology
- 10237 in addition to the professional development described in Subsection (6)(a).

10238 Section 281. Section **63N-12-207**, which is renumbered from Section 63M-1-3206 is

10239 renumbered and amended to read:

10240 ~~[63M-1-3206]~~. **63N-12-207. Distribution of STEM education instructional**

10241 **technology to schools.**

10242 (1) Subject to legislative appropriations, on behalf of the board, the staff of the board

10243 and the staff of the State Board of Education shall collaborate and shall:

- 10244 (a) distribute STEM education related instructional technology described in Section
- 10245 ~~[63M-1-3205]~~ 63N-12-206 to school districts and charter schools; and
- 10246 (b) provide related professional development to the school districts and charter schools
- 10247 that receive STEM education related instructional technology.

10248 (2) A school district or charter school may apply to the board, through a competitive

10249 process, to receive STEM education related instructional technology from the board.

10250 (3) A school district or charter school that receives STEM education related

10251 instructional technology as described in this section shall provide the school district's or charter

10252 school's own computer hardware.

10253 Section 282. Section **63N-12-208**, which is renumbered from Section 63M-1-3207 is

10254 renumbered and amended to read:

10255 ~~[63M-1-3207]~~. **63N-12-208. Report to Legislature and the State Board of**

10256 **Education.**

10257 (1) The board shall report the progress of the STEM Action Center, including the

10258 information described in Subsection (2), to the following groups once each year:

- 10259 (a) the Education Interim Committee;
- 10260 (b) the Public Education Appropriations Subcommittee;
- 10261 (c) the State Board of Education; and
- 10262 (d) the office for inclusion in the office's annual written report described in Section
- 10263 ~~[63M-1-206]~~ 63N-1-301.

10264 (2) The report described in Subsection (1) shall include information that demonstrates
10265 the effectiveness of the program, including:

- 10266 (a) the number of educators receiving high quality professional development;
- 10267 (b) the number of students receiving services from the STEM Action Center;
- 10268 (c) a list of the providers selected pursuant to this part;
- 10269 (d) a report on the STEM Action Center's fulfilment of its duties described in Section
- 10270 ~~[63M-1-3204]~~ 63N-12-205; and

10271 (e) student performance of students participating in a STEM Action Center program as
10272 collected in Subsection ~~[63M-1-3204]~~ 63N-12-205(4).

10273 Section 283. Section **63N-12-209**, which is renumbered from Section 63M-1-3208 is
10274 renumbered and amended to read:

10275 ~~[63M-1-3208]~~. **63N-12-209. STEM education endorsements and incentive**
10276 **program.**

10277 (1) The State Board of Education shall collaborate with the STEM Action Center to:

- 10278 (a) develop STEM education endorsements; and
- 10279 (b) create and implement financial incentives for:
 - 10280 (i) an educator to earn an elementary or secondary STEM education endorsement
 - 10281 described in Subsection (1)(a); and
 - 10282 (ii) a school district or a charter school to have STEM endorsed educators on staff.

10283 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
10284 State Board of Education shall make rules to establish how a STEM education endorsement
10285 incentive described in Subsection (1)~~(a)~~ will be valued on a salary scale for educators.

10286 Section 284. Section **63N-12-210**, which is renumbered from Section 63M-1-3209 is
10287 renumbered and amended to read:

10288 ~~[63M-1-3209]~~. **63N-12-210. Acquisition of STEM education high quality**

10289 **professional development.**

10290 (1) The STEM Action Center shall, through a request for proposals process, select
10291 technology providers for the purpose of providing a STEM education high quality professional
10292 development application.

10293 (2) The high quality professional development application described in Subsection (1)
10294 shall:

10295 (a) allow the State Board of Education, a school district, or a school to define the
10296 application's input and track results of the high quality professional development;

10297 (b) allow educators to access automatic tools, resources, and strategies;

10298 (c) allow educators to work in online learning communities, including giving and
10299 receiving feedback via uploaded video;

10300 (d) track and report data on the usage of the components of the application's system
10301 and the relationship to improvement in classroom instruction;

10302 (e) include video examples of highly effective STEM education teaching that:

10303 (i) cover a cross section of grade levels and subjects;

10304 (ii) under the direction of the State Board of Education, include videos of highly
10305 effective Utah STEM educators; and

10306 (iii) contain tools to help educators implement what they have learned; and

10307 (f) allow for additional STEM education video content to be added.

10308 (3) In addition to the high quality professional development application described in
10309 Subsections (1) and (2), the STEM Action Center may create STEM education hybrid or
10310 blended high quality professional development that allows for face-to-face applied learning.

10311 Section 285. Section **63N-12-211**, which is renumbered from Section 63M-1-3210 is
10312 renumbered and amended to read:

10313 ~~**[63M-1-3210].**~~ **63N-12-211. STEM education middle school applied science**
10314 **initiative.**

10315 (1) The STEM Action Center shall develop an applied science initiative for students in
10316 grades 7 and 8 that includes:

10317 (a) a STEM applied science curriculum with instructional materials;

10318 (b) STEM hybrid or blended high quality professional development that allows for
10319 face-to-face applied learning; and

10320 (c) hands-on tools for STEM applied science learning.

10321 (2) The STEM Action Center may, through a request for proposals process, select a
10322 consultant to assist in developing the initiative described in Subsection (1).

10323 Section 286. Section **63N-12-212**, which is renumbered from Section 63M-1-3211 is
10324 renumbered and amended to read:

10325 ~~[63M-1-3211]~~. **63N-12-212. High school STEM education initiative.**

10326 (1) Subject to legislative appropriations, after consulting with State Board of Education
10327 staff, the STEM Action Center shall award grants to school districts and charter schools to fund
10328 STEM related certification for high school students.

10329 (2) (a) A school district or charter school may apply for a grant from the STEM Action
10330 Center, through a competitive process, to fund the school district's or charter school's STEM
10331 related certification training program.

10332 (b) A school district's or charter school's STEM related certification training program
10333 shall:

10334 (i) prepare high school students to be job ready for available STEM related positions of
10335 employment; and

10336 (ii) when a student completes the program, result in the student gaining a nationally
10337 industry-recognized employer STEM related certification.

10338 (3) A school district or charter school may partner with one or more of the following to
10339 provide a STEM related certification program:

10340 (a) a Utah College of Applied Technology college campus;

10341 (b) Salt Lake Community College;

10342 (c) Snow College; or

10343 (d) a private sector employer.

10344 Section 287. Section **63N-13-101**, which is renumbered from Section 63M-1-2101 is
10345 renumbered and amended to read:

10346 **CHAPTER 13. PROCUREMENT PROGRAMS**

10347 **Part 1. Procurement Assistance**

10348 ~~[63M-1-2101]~~. **63N-13-101. Projects to assist companies to secure new**
10349 **business with federal, state, and local governments.**

10350 (1) This chapter is known as "Procurement Programs."

10351 [~~(1)~~] (2) The Legislature recognizes that:

10352 (a) many Utah companies provide products and services which are routinely procured
10353 by a myriad of governmental entities at all levels of government, but that attempting to
10354 understand and comply with the numerous certification, registration, proposal, and contract
10355 requirements associated with government procurement often raises significant barriers for
10356 those companies with no government contracting experience;

10357 (b) the costs associated with obtaining a government contract for products or services
10358 often prevent most small businesses from working in the governmental procurement market;

10359 (c) currently a majority of federal procurement opportunities are contracted to
10360 businesses located outside of the state;

10361 (d) the Governor's Office of Economic Development currently administers programs
10362 and initiatives that help create and grow companies in Utah and recruit companies to Utah
10363 through the use of state employees, public-private partnerships, and contractual services; and

10364 (e) there exists a significant opportunity for Utah companies to secure new business
10365 with federal, state, and local governments.

10366 [~~(2)~~] (3) The office, through its executive director:

10367 (a) shall manage and direct the administration of state and federal programs and
10368 initiatives whose purpose is to procure federal, state, and local governmental contracts;

10369 (b) may require program accountability measures; and

10370 (c) may receive and distribute legislative appropriations and public and private grants
10371 for projects and programs that:

10372 (i) are focused on growing Utah companies and positively impacting statewide
10373 revenues by helping these companies secure new business with federal, state, and local
10374 governments;

10375 (ii) provide guidance to Utah companies interested in obtaining new business with
10376 federal, state, and local governmental entities;

10377 (iii) would facilitate marketing, business development, and expansion opportunities for
10378 Utah companies in cooperation with the Governor's Office of Economic Development's
10379 Procurement Technical Assistance Center Program and with public, nonprofit, or private sector
10380 partners such as local chambers of commerce, trade associations, or private contractors as
10381 determined by the office's director to successfully match Utah businesses with government

10382 procurement opportunities; and

10383 (iv) may include the following components:

10384 (A) recruitment, individualized consultation, and an introduction to government
10385 contracting;

10386 (B) specialized contractor training for companies located in Utah;

10387 (C) a Utah contractor matching program for government requirements;

10388 (D) experienced proposal and bid support; and

10389 (E) specialized support services.

10390 [~~3~~] (4) (a) The office, through its executive director, shall make any distribution
10391 referred to in Subsection [~~2~~] (3) on a semiannual basis.

10392 (b) A recipient of money distributed under this section shall provide the office with a
10393 set of standard monthly reports, the content of which shall be determined by the office to
10394 include at least the following information:

10395 (i) consultive meetings with Utah companies;

10396 (ii) seminars or training meetings held;

10397 (iii) government contracts awarded to Utah companies;

10398 (iv) increased revenues generated by Utah companies from new government contracts;

10399 (v) jobs created;

10400 (vi) salary ranges of new jobs; and

10401 (vii) the value of contracts generated.

10402 Section 288. Section **63N-13-201**, which is renumbered from Section 63M-1-2601 is
10403 renumbered and amended to read:

10404 **Part 2. Government Procurement Private Proposal Program**

10405 [~~63M-1-2601~~]. **63N-13-201. Title.**

10406 This part is known as the "Government Procurement Private Proposal Program."

10407 Section 289. Section **63N-13-202**, which is renumbered from Section 63M-1-2602 is
10408 renumbered and amended to read:

10409 [~~63M-1-2602~~]. **63N-13-202. Definitions.**

10410 As used in this part:

10411 (1) "Affected department" means, as applicable, the Board of Education or the
10412 Department of Technology Services.

- 10413 (2) "Board" means the Board of Business and Economic Development created under
 10414 Section ~~[63M-1-301]~~ [63N-1-401](#).
- 10415 (3) "Board of Education" means the Utah State Board of Education.
- 10416 (4) "Chief procurement officer" means the chief procurement officer appointed under
 10417 Section [63G-6a-302](#).
- 10418 (5) "Committee" means the proposal review committee created under Section
 10419 ~~[63M-1-2604]~~ [63N-13-204](#).
- 10420 (6) "Day" means a calendar day.
- 10421 ~~[(7)]~~ "Director" is as defined in Section ~~63M-1-102~~.]
- 10422 ~~[(8)]~~ (7) "Executive Appropriations Committee" means the Legislature's Executive
 10423 Appropriations Committee.
- 10424 ~~[(9)]~~ (8) "Information technology" ~~[is]~~ has the same meaning as defined in Section
 10425 [63F-1-102](#).
- 10426 ~~[(10)]~~ "Office" ~~means the Governor's Office of Economic Development created under~~
 10427 ~~Section 63M-1-201.~~]
- 10428 ~~[(11)]~~ (9) "Private entity" means a person submitting a proposal under this part for the
 10429 purpose of entering into a project.
- 10430 ~~[(12)]~~ (10) "Project" means the subject of a proposal or an agreement for the
 10431 procurement or disposal of:
- 10432 (a) information technology or telecommunications products or services; or
- 10433 (b) supplies or services for or on behalf of the Department of Technology Services or
 10434 the Board of Education.
- 10435 ~~[(13)]~~ (11) "Proposal" means an unsolicited offer by a private entity to undertake a
 10436 project, including an initial proposal under Section ~~[63M-1-2605]~~ [63N-13-205](#) and a detailed
 10437 proposal under Section ~~[63M-1-2608]~~ [63N-13-208](#).
- 10438 ~~[(14)]~~ (12) "Services" ~~[is]~~ has the same meaning as defined in Section [63G-6a-103](#).
- 10439 ~~[(15)]~~ (13) "Supplies" ~~[is]~~ has the same meaning as defined in Section [63G-6a-103](#).
- 10440 ~~[(16)]~~ (14) "Telecommunications" ~~[is]~~ has the same meaning as defined in Section
 10441 [63F-1-102](#).
- 10442 Section 290. Section **63N-13-203**, which is renumbered from Section 63M-1-2603 is
 10443 renumbered and amended to read:

10444 ~~[63M-1-2603]~~. 63N-13-203. **Government Procurement Private Proposal**
10445 **Program -- Proposals -- Rulemaking.**

10446 (1) There is created within the office the Government Procurement Private Proposal
10447 Program.

10448 (2) In accordance with this part, the board may:

10449 (a) accept a proposal for a project;

10450 (b) solicit comments, suggestions, and modifications to a project in accordance with
10451 Section [63G-6a-711](#); and

10452 (c) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
10453 Rulemaking Act, establishing requirements, including time limits for any action required by the
10454 affected department, a directly affected state entity or school district, or the Governor's Office
10455 of Management and Budget, for the procurement of a project to the extent not governed by
10456 Title 63G, Chapter 6a, Utah Procurement Code.

10457 Section 291. Section 63N-13-204, which is renumbered from Section 63M-1-2604 is
10458 renumbered and amended to read:

10459 ~~[63M-1-2604]~~. 63N-13-204. **Committee for reviewing proposals --**
10460 **Appointment -- Accepting or rejecting a proposal.**

10461 (1) The executive director shall appoint a committee composed of members of the
10462 board to review and evaluate a proposal submitted in accordance with this part.

10463 (2) The executive director shall determine the number of board members that constitute
10464 a committee.

10465 (3) The committee shall, at all times, consist of less than a quorum of the members of
10466 the board, as established under Section ~~[63M-1-301]~~ [63N-1-401](#).

10467 (4) A committee member shall serve on the committee until:

10468 (a) replaced by the executive director; or

10469 (b) the committee member ceases to be a member of the board.

10470 (5) The executive director may fill a vacancy among voting members on the
10471 committee.

10472 (6) The committee shall include the following nonvoting members in addition to the
10473 members appointed under Subsection (1):

10474 (a) a member of the Senate, appointed by the president of the Senate; and

10475 (b) a member of the House of Representatives, appointed by the speaker of the House
10476 of Representatives, who may not be from the same political party as the member of the Senate
10477 appointed under Subsection (6)(a).

10478 (7) (a) A vacancy among legislative members appointed under Subsection (6) shall be
10479 filled by the president of the Senate or the speaker of the House of Representatives,
10480 respectively.

10481 (b) At the time of appointment or reappointment, the president of the Senate and the
10482 speaker of the House of Representatives shall consult to ensure that the legislative members
10483 appointed under Subsection (6) are not members of the same political party.

10484 (8) A committee member is subject to Title 67, Chapter 16, Utah Public Officers' and
10485 Employees' Ethics Act, and any additional requirement established by the board in accordance
10486 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

10487 (9) The committee shall inform a private entity of the committee's decision to approve
10488 or reject a proposal in writing.

10489 (10) If the committee, in its sole discretion, accepts a proposal, the proposal shall be
10490 evaluated under this part.

10491 (11) If the committee, in its sole discretion, rejects a proposal, the committee shall
10492 notify the private entity of the reason for the rejection and shall return any remaining portion of
10493 the fee required under Section [~~63M-1-2612~~] 63N-13-212.

10494 Section 292. Section **63N-13-205**, which is renumbered from Section 63M-1-2605 is
10495 renumbered and amended to read:

10496 **~~[63M-1-2605]~~. 63N-13-205. Initial proposal -- Requirements.**

10497 (1) In accordance with this part, a private entity may at any time submit to the
10498 committee an initial proposal for a project.

10499 (2) An initial proposal shall include:

10500 (a) a conceptual description of the project;

10501 (b) a description of the economic benefit of the project to the state and the affected
10502 department;

10503 (c) information concerning the products, services, and supplies currently being
10504 provided by the state, that are similar to the project;

10505 (d) an estimate of the following costs associated with the project:

- 10506 (i) design;
- 10507 (ii) implementation;
- 10508 (iii) operation and maintenance; and
- 10509 (iv) any other related project cost; and
- 10510 (e) the name and address of a person who may be contacted for further information
- 10511 concerning the initial proposal.

10512 (3) A private entity submitting an initial proposal under this section shall pay the fee
 10513 required by Section [~~63M-1-2612~~] 63N-13-212 when the initial proposal is submitted.

10514 (4) An initial proposal submitted under this section is a protected record under Title
 10515 63G, Chapter 2, Government Records Access and Management Act, until the chief
 10516 procurement officer initiates a procurement process in accordance with Section 63G-6a-711.

10517 (5) The board shall make rules in accordance with Title 63G, Chapter 3, Utah
 10518 Administrative Rulemaking Act, detailing the portions of an initial proposal that remain
 10519 protected after the chief procurement officer initiates a procurement process.

10520 Section 293. Section **63N-13-206**, which is renumbered from Section 63M-1-2606 is
 10521 renumbered and amended to read:

10522 ~~[63M-1-2606]~~. **63N-13-206. Review of initial proposal -- Affected**
 10523 **department review.**

10524 (1) The committee shall review and evaluate an initial proposal submitted in
 10525 accordance with:

- 10526 (a) this part; and
- 10527 (b) any rule established by the board under Section [~~63M-1-2603~~] 63N-13-203.

10528 (2) If the committee, in its sole discretion, determines to proceed with the project, the
 10529 committee shall submit a copy of the initial proposal to:

- 10530 (a) the affected department; and
- 10531 (b) the Governor's Office of Management and Budget.

10532 (3) (a) An affected department, directly affected state entity, and school district
 10533 receiving a copy of the initial proposal under Subsection (2) or (4) shall review the initial
 10534 proposal and provide the committee with any comment, suggestion, or modification to the
 10535 project.

10536 (b) After receiving an initial proposal, the Governor's Office of Management and

10537 Budget shall prepare an economic feasibility report containing:

10538 (i) information concerning the economic feasibility and effectiveness of the project

10539 based upon competent evidence;

10540 (ii) a dollar amount representing the total estimated fiscal impact of the project to the

10541 affected department and the state; and

10542 (iii) any other matter the committee requests or is required by the board by rule.

10543 (4) In reviewing an initial proposal, the affected department shall share the initial

10544 proposal with any other state entity or school district that will be directly affected if the

10545 proposal is ultimately adopted, if the confidentiality of the initial proposal is maintained.

10546 (5) If the committee determines to proceed with the project, the committee shall submit

10547 a copy of the initial proposal, including any comment, suggestion, or modification to the initial

10548 proposal, to:

10549 (a) the chief procurement officer in accordance with Section [63G-6a-711](#); and

10550 (b) the Executive Appropriations Committee, for informational purposes.

10551 (6) Before taking any action under Subsection (5), the committee shall consider:

10552 (a) any comment, suggestion, or modification to the initial proposal submitted in

10553 accordance with Subsection (3);

10554 (b) the extent to which the project is practical, efficient, and economically beneficial to

10555 the state and the affected department;

10556 (c) the economic feasibility report prepared by the Governor's Office of Management

10557 and Budget; and

10558 (d) any other reasonable factor identified by the committee or required by the board by

10559 rule.

10560 Section 294. Section **63N-13-207**, which is renumbered from Section 63M-1-2607 is

10561 renumbered and amended to read:

10562 ~~[63M-1-2607]~~. **63N-13-207. Acceptance of initial proposal -- Obtaining**

10563 **detailed proposals.**

10564 (1) If an initial proposal is accepted under Section ~~[63M-1-2606]~~ 63N-13-206, the

10565 chief procurement officer shall:

10566 (a) take action under Section [63G-6a-711](#) to initiate a procurement process to obtain

10567 one or more detailed proposals using information from portions of the initial proposal that are

10568 not protected records under Title 63G, Chapter 2, Government Records Access and
10569 Management Act;

10570 (b) consult with the committee during the procurement process; and

10571 (c) submit all detailed proposals that meet the guidelines established under Subsection
10572 [~~63M-1-2608~~] 63N-13-208(1), including the detailed proposal submitted by the private entity
10573 that submitted the initial proposal for the project, to:

10574 (i) the committee; and

10575 (ii) the Governor's Office of Management and Budget.

10576 (2) The office is considered the purchasing agency for a procurement process initiated
10577 under this part.

10578 Section 295. Section **63N-13-208**, which is renumbered from Section 63M-1-2608 is
10579 renumbered and amended to read:

10580 ~~[63M-1-2608]~~. **63N-13-208**. **Detailed proposal -- Requirements --**
10581 **Cooperation of affected department.**

10582 (1) A detailed proposal submitted in response to a procurement process initiated under
10583 Section [~~63M-1-2607~~] 63N-13-207 shall include:

10584 (a) a conceptual description of the project, including the scope of the work;

10585 (b) a description of the economic benefit of the project to the state and the affected
10586 department;

10587 (c) an estimate of the design, implementation, operation, maintenance, or other costs
10588 associated with the project;

10589 (d) information concerning the information technology or telecommunication product
10590 and service or other supply or service currently provided by the state that is similar to the
10591 project being proposed, if applicable;

10592 (e) a statement setting forth the private entity's general plan for financing the project,
10593 including any appropriation by the Legislature or other public money and, if applicable, the
10594 sources of the private entity's funds and identification of any dedicated revenue source or
10595 proposed debt or equity investment on behalf of the private entity;

10596 (f) the name and address of the person who may be contacted for further information
10597 concerning the detailed proposal;

10598 (g) a statement describing the private entity's experience with other similar projects and

- 10599 a description of why the private entity is best qualified for the project; and
- 10600 (h) any other information:
- 10601 (i) reasonably requested by the affected department or the committee, or required by
- 10602 the board by rule; or
- 10603 (ii) that the private entity considers necessary or appropriate to complete or describe
- 10604 the detailed proposal.
- 10605 (2) To assist each private entity in preparing a detailed proposal:
- 10606 (a) the affected department shall provide each private entity with access to all
- 10607 information, records, documents, and reports related to the proposal and the project that are
- 10608 designated public records under Title 63G, Chapter 2, Government Records Access and
- 10609 Management Act; and
- 10610 (b) the affected department and the committee shall cooperate with each private entity
- 10611 to assist the private entity in the development of a detailed proposal that is:
- 10612 (i) practical;
- 10613 (ii) efficient; and
- 10614 (iii) economically beneficial to the state and the affected department.
- 10615 (3) The committee or any private entity may choose to terminate the development of
- 10616 the detailed proposal at any time before the submission of the detailed proposal to the chief
- 10617 procurement officer under Section [63G-6a-711](#).
- 10618 Section 296. Section **63N-13-209**, which is renumbered from Section 63M-1-2609 is
- 10619 renumbered and amended to read:
- 10620 **~~63M-1-2609~~. 63N-13-209. Receipt of detailed proposals -- Economic**
- 10621 **feasibility report -- Acceptance of a detailed proposal.**
- 10622 (1) If the committee, in its sole discretion, determines that a detailed proposal does not
- 10623 substantially meet the guidelines established under Subsection [~~63M-1-2608~~] 63N-13-208(1),
- 10624 the committee may elect not to review the detailed proposal.
- 10625 (2) (a) After receiving a detailed proposal, the Governor's Office of Management and
- 10626 Budget shall update the economic feasibility report prepared under Section [~~63M-1-2606~~]
- 10627 63N-13-206.
- 10628 (b) A detailed proposal that is to be reviewed by the committee shall be submitted to
- 10629 the affected department, a directly affected state entity, and a directly affected school district

10630 for comment or suggestion.

10631 (3) In determining which, if any, of the detailed proposals to accept, in addition to the
10632 proposal evaluation criteria, the committee shall consider the following factors:

10633 (a) any comment, suggestion, or modification offered in accordance with Subsection
10634 [~~63M-1-2606~~] 63N-13-206(3) or Subsection (2)(b);

10635 (b) the economic feasibility report updated in accordance with Subsection (2)(a);

10636 (c) the source of funding and any resulting constraint necessitated by the funding
10637 source;

10638 (d) any alternative funding proposal;

10639 (e) the extent to which the project is practical, efficient, and economically beneficial to
10640 the state and the affected department; and

10641 (f) any other reasonable factor identified by the committee or required by the board by
10642 rule.

10643 (4) (a) If the committee accepts a detailed proposal, the accepted detailed proposal
10644 shall be submitted to the board for approval.

10645 (b) If the affected department or a directly affected state entity or school district
10646 disputes the detailed proposal approved by the board, the Governor's Office of Management
10647 and Budget shall consider the detailed proposal and any comment, suggestion, or modification
10648 and determine whether to proceed with a project agreement.

10649 (c) If there is no funding for a project that is the subject of a detailed proposal and the
10650 committee determines to proceed with the project, the office shall submit a report to the
10651 Governor's Office of Management and Budget and the Executive Appropriations Committee
10652 detailing the position of the board, the affected department, a directly affected state entity or
10653 school district.

10654 (5) A detailed proposal received from a private entity other than the private entity that
10655 submitted the initial proposal may not be accepted in place of the detailed proposal offered by
10656 the private entity that submitted the initial proposal solely because of a lower cost if the lower
10657 cost is within the amount of the fee paid by the private entity that submitted the initial proposal
10658 for review of the initial proposal.

10659 Section 297. Section **63N-13-210**, which is renumbered from Section 63M-1-2610 is
10660 renumbered and amended to read:

- 10661 ~~63M-1-2610~~. 63N-13-210. **Project agreement.**
- 10662 (1) If the board accepts the detailed proposal, the executive director shall:
- 10663 (a) prepare a project agreement in consultation with the affected department and any
- 10664 other state entity directly impacted by the detailed proposal; and
- 10665 (b) enter into the project agreement with the private entity.
- 10666 (2) A project agreement shall be signed by the executive director, the affected
- 10667 department, a directly affected state entity or school district, and the private entity.
- 10668 (3) A project agreement shall include provisions concerning:
- 10669 (a) the scope of the project;
- 10670 (b) the pricing method of the project;
- 10671 (c) the executive director's or the state's ability to terminate for convenience or for
- 10672 default, and any termination compensation to be paid to the private entity, if applicable;
- 10673 (d) the ability to monitor performance under the project agreement;
- 10674 (e) the appropriate limits of liability;
- 10675 (f) the appropriate transition of services, if applicable;
- 10676 (g) the exceptions from applicable rules and procedures for the implementation and
- 10677 administration of the project by the affected department, if any;
- 10678 (h) the clauses and remedies applicable to state contracts under Title 63G, Chapter 6a,
- 10679 Part 12, Contracts and Change Orders; and
- 10680 (i) any other matter reasonably requested by the committee or required by the board by
- 10681 rule.
- 10682 (4) A copy of the signed project agreement shall be submitted to:
- 10683 (a) the affected department; and
- 10684 (b) the Executive Appropriations Committee.
- 10685 (5) A project agreement is considered a contract under Title 63G, Chapter 6a, Utah
- 10686 Procurement Code.
- 10687 (6) The affected department shall implement and administer the project agreement in
- 10688 accordance with rules made under Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 10689 except as modified by the project agreement under Subsection (3)(g).
- 10690 Section 298. Section **63N-13-211**, which is renumbered from Section 63M-1-2611 is
- 10691 renumbered and amended to read:

10692 ~~[63M-1-2611]~~. 63N-13-211. **Advisory committee.**

10693 (1) The executive director may appoint an advisory committee comprised of:

10694 (a) representatives of:

10695 (i) the affected department for the proposal;

10696 (ii) a directly affected state entity or school district;

10697 (iii) the Department of Human Resource Management; and

10698 (iv) the Division of Risk Management;

10699 (b) members of the public; and

10700 (c) other members.

10701 (2) A member of an advisory committee may not receive compensation or benefits for

10702 the member's service, but may receive per diem and travel expenses in accordance with:

10703 (a) Section 63A-3-106;

10704 (b) Section 63A-3-107; and

10705 (c) rules made by the Division of Finance ~~[pursuant to]~~ under Sections 63A-3-106 and

10706 63A-3-107.

10707 (3) An advisory committee appointed in accordance with Subsection (1) may not

10708 participate in the final decision-making of the committee or the board.

10709 (4) The staff, any outside consultant, and any advisory subcommittee shall:

10710 (a) provide the committee and the board with professional services, including

10711 architectural, engineering, legal, and financial services, to develop rules and guidelines to

10712 implement the program described in this part; and

10713 (b) assist the committee and the board in:

10714 (i) reviewing and commenting on initial proposals;

10715 (ii) reviewing and commenting on detailed proposals; and

10716 (iii) preparing and negotiating the terms of any project agreement.

10717 Section 299. Section 63N-13-212, which is renumbered from Section 63M-1-2612 is

10718 renumbered and amended to read:

10719 ~~[63M-1-2612]~~. 63N-13-212. **Private Proposal Expendable Special Revenue**

10720 **Fund -- Fees.**

10721 (1) There is created an expendable special revenue fund within the office called the

10722 Private Proposal Expendable Special Revenue Fund.

10723 (2) Money collected from the payment of a fee required by this part shall be deposited
10724 in the Private Proposal Expendable Special Revenue Fund.

10725 (3) The board or the committee may use the money in the Private Proposal Expendable
10726 Special Revenue Fund to offset:

10727 (a) the expense of hiring staff and engaging any outside consultant to review a proposal
10728 under this part; and

10729 (b) any expense incurred by the Governor's Office of Management and Budget or the
10730 affected department in the fulfillment of its duties under this part.

10731 (4) The board shall establish a fee in accordance with Section [63J-1-504](#) for:

10732 (a) reviewing an initial proposal;

10733 (b) reviewing any detailed proposal; and

10734 (c) preparing any project agreement.

10735 (5) The board may waive the fee established under Subsection (4) if the board
10736 determines that it is:

10737 (a) reasonable; and

10738 (b) in the best interest of the state.

10739 Section 300. Section **79-4-1103** is amended to read:

10740 **79-4-1103. Governor's duties -- Priority of federal property.**

10741 (1) During a fiscal emergency, the governor shall:

10742 (a) if financially practicable, work with the federal government to open and maintain
10743 the operation of one or more national parks, national monuments, national forests, and national
10744 recreation areas in the state, in the order established under this section; and

10745 (b) report to the speaker of the House and the president of the Senate on the need, if
10746 any, for additional appropriations to assist the division in opening and operating one or more
10747 national parks, national monuments, national forests, and national recreation areas in the state.

10748 (2) The director of the Outdoor Recreation Office, created in Section [[63M-1-3304](#)]
10749 [63N-9-104](#), in consultation with the executive director of the Governor's Office of Economic
10750 Development, shall determine, by rule, the priority of national parks, national monuments,
10751 national forests, and national recreation areas in the state.

10752 (3) In determining the priority described in Subsection (2), the director of the Outdoor
10753 Recreation Office shall consider the:

- 10754 (a) economic impact of the national park, national monument, national forest, or
10755 national recreation area in the state; and
- 10756 (b) recreational value offered by the national park, national monument, national forest,
10757 or national recreation area.
- 10758 (4) The director of the Outdoor Recreation Office shall:
- 10759 (a) report the priority determined under Subsection (2) to the Natural Resources,
10760 Agriculture, and Environment Interim Committee by November 30, 2014; and
- 10761 (b) annually review the priority set under Subsection (2) to determine whether the
10762 priority list should be amended.
- 10763 Section 301. **Repealer.**
- 10764 This bill repeals:
- 10765 Section **63M-1-204, Organization of office -- Jurisdiction of director.**
- 10766 Section **63M-1-207, Daylight saving time study.**
- 10767 Section **63M-1-301, Board of Business and Economic Development.**
- 10768 Section **63M-1-304, Governor's Office of Economic Development -- Powers and**
10769 **duties of office -- Consulting with board on funds or services provided by office.**
- 10770 Section **63M-1-801, Creation of shared foreign sales corporations.**
- 10771 Section **63M-1-802, Management fees.**
- 10772 Section **63M-1-1301, Title.**
- 10773 Section **63M-1-1302, Purpose.**
- 10774 Section **63M-1-1901, Military installation projects for economic development --**
10775 **Funding -- Criteria -- Dispersal -- Report.**
- 10776 Section **63M-1-2408, Transition clause -- Renegotiation of agreements -- Payment**
10777 **of partial rebates.**

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